

# Chapter 12

## PERSONAL AND JOB-RELATED FACTORS

### 12 Personal and Job-Related Factors



**Author:** Michael E. Maddox

**Quote:** "...drastic changes in the work environment can be expected to have emotional, psychological, and even physical consequences for the aviation workforce."

## INTRODUCTION

Whatever else one can say about the aviation industry, the past decade certainly has brought fundamental changes in the way aviation companies relate to employees. As in most other segments of the global economy, aviation has been forced to become more efficient, cost-conscious, and competitive while maintaining its high level of performance and safety. Mergers and consolidations, as well as emergence of several low-cost air carriers, has disrupted many employees' lives.<sup>1</sup>

Disruptions include moves from one city to another, changes in pay (usually to a lower level), increased workloads for individual technicians, and layoffs or outright dismissals. Such drastic changes in the work environment have emotional, psychological, even physical, consequences for the aviation workforce. The stress of wholesale changes in the workplace magnifies incipient problems related to family tensions, money, substance abuse, and perceived organizational inequities.

The quality of one's work can be directly and adversely influenced by emotional, psychological, and physical problems.<sup>2</sup> We discussed such emotional and stress-related performance shaping factors in **Chapter 1**. While employers would like to keep an *arm's length* perspective on a worker's personal problems, it is increasingly difficult to justify such an arrangement. In aviation maintenance, public safety could depend on maintenance technicians' physical and emotional well-being. Beyond the issue of public safety, however, it makes economic sense for employers to keep workers safe, happy, and attentive to their jobs.

In this chapter, we explore personal and job-related factors that commonly influence workers' job performance. We also examine ways employers can walk the narrow path between being

supportive of workers' needs and intrusively inserting themselves into workers' private lives. The aim at all times, from a human factors perspective, is to improve worker performance by ensuring their emotional and physical well-being.

## BACKGROUND

There is a long history of employers' involvement in their workers' personal problems. While employers' concern has always been based primarily on the company's economic well-being, it has benefited workers greatly.<sup>3</sup> Personal and substance abuse problems cost individual businesses, as well as the US economy, vast sums; estimates extend upward to hundreds of *billions* of dollars annually.<sup>4,5</sup>

As attitudes about work have changed, so has employees' willingness to allow employers to dictate off-work behavior. Employees now are less likely to accept employers' paternalistic intrusion into personal lives or employers' right to fire at will. Aizenman cites a 1988 statistic that employee suits constitute the largest single group of civil rights filings in federal courts.<sup>6</sup> In the remainder of this section, we discuss some fundamental factors contributing to the present situation.

### Work vs. Private Life

The interplay between work and private life has existed as long as organized work. When work life in America centered on the farm, the dividing line between work and private endeavors was fuzzy. The pace and schedule of private activities was more-or-less determined by requirements of planting and harvesting crops, as well as by the vagaries of mother nature.

Over the past 100 years, America has moved from an agrarian, to an industrial, and now to a technological society. Workers have attempted to segment their lives into a part concerned with work and a part reserved for non-work activities. Americans have always had strong feelings regarding the privacy of the non-work life.

Elements of our non-work life can have a direct, detrimental effect on the quality of our work. Personal problems like illness, wayward children, and marital discord can make it difficult to concentrate on a job.<sup>2</sup> Drug and alcohol use similarly affect work quality. In aviation maintenance, any condition or activity degrading work quality can also affect public safety.

Certain work domains have cultures in which employees are **expected** to participate in off-work activities known to affect work performance adversely. One of the best examples is military aviation. Pilots were, until recently, expected to work hard and to play hard. Regardless of their pre-flight activities, they are expected to perform at their best. Anyone who ever attempted to find a button on a TV remote control while hungover should have an idea of how well a fighter pilot performs under similar conditions.

Interestingly, commentators in other countries praise the United States for its freedom from government snooping while condemning business managers for delving into employees' personal lives.<sup>7</sup> Most people are surprised to learn the lengths to which employers can legally go to obtain personal or private information.<sup>8</sup> While much of the concern applies to information in the work setting, e.g., monitoring E-mail, more employers are looking into their employees' private lives.<sup>6</sup>

## Corporate Culture

Most American workers have the attitude that employers have no right to "meddle" in their private lives. For most of the history of organized work, however, the reality has been quite the opposite. Early in this century, employers recognized that what workers did during off-work hours could directly impact the quality of their work performance. Many companies established cultural and philosophical frameworks within which employees were expected to live.

In the early 1900's, most large companies imposed some type of behavioral code on their employees, even during off-work hours. A good example is the requirements Henry Ford imposed on employees. In exchange for the highest prevailing wage of the era (\$5 per day), Ford expected employees to conduct themselves in a dignified manner, to attend church, and to use alcohol only in moderation, if at all.<sup>9</sup>

Some well-known corporate cultures survived until recently. A case in point is the famous **IBM** dress and conduct code its founder initiated. Despite the general relaxation of constraints on dress at work, other elements of corporate culture remain alive and well. For example, except where they are required to do so by law, Cable News Network (CNN) refuses to hire anyone who smokes tobacco -- at any time.

Some authors contend that an integral part of many corporate cultures is to ignore, deny, or otherwise dismiss the extent to which employees experience certain problems - especially drug and alcohol abuse.<sup>10</sup> Miller alleges that companies become dependent on the illusion (or outright lie) that such problems do not exist.<sup>11</sup> These problems only get worse as long as their existence is denied.

## Counseling Programs

We noted that, especially in the early part of this century, employees were expected to conform to a certain moral and behavioral style as a requirement for continued employment. Workers could be fired for any reason because of the *employment-at-will* doctrine, so companies easily enforced cultural requirements. However, companies tended to be paternalistic, rather than abusive, toward employees. Recognizing that employees were subject to emotional, moral, and social pressures, many companies established counseling and employee welfare programs to help troubled workers deal with personal problems.

According to a 1926 Bureau of Labor Statistics report McGowan cites in a comprehensive

work,<sup>12</sup> "Nearly 80 percent of the 1,500 largest companies in the country had at least one type of welfare program and over half had comprehensive programs." These programs declined after the middle of the 1920's because of increased unionization, increased opposition to paternalism, and proliferation of community-based welfare and counseling programs.

A resurgence in company-centered counseling programs began in the late 1930's and lasted through the post-war years. Beginning with the introduction of limited employee mental health programs, the programs greatly expanded in response to recognition of occupational alcoholism. In the late 1940's, union-based social service and counseling programs began appearing. Interestingly, the union leadership's lack of interest in such programs is cited as one reason for their slow adoption.<sup>13</sup>

## Employee Assistance Programs

The modern counterpart of company welfare, social, and counseling programs is the Employee Assistance Program (EAP).<sup>14</sup> Originally, EAPs aimed primarily at employee's alcohol-dependency problems, but modern EAPs address issues including social, financial, family, emotional, and physical concerns. EAP programs differ in their use of in-house and external staff, in the location(s) that services are provided, in their range of services, and in other factors.

In the aviation maintenance industry, every company has some type of **EAP**. From a regulatory perspective, the programs are required specifically to address substance abuse problems (see **REGULATORY REQUIREMENTS**). However, aviation maintenance workers rarely use alcohol and illicit drugs, as mandatory drug testing results show. The real focus of such assistance programs is on stress caused by an uncertain, understaffed, and financially strapped workplace -- often reflected in family problems. This correlates with reports that nearly 70% of problems for which employees receive counseling have at least some family-related elements.<sup>2</sup>

## Confidentiality

The single largest source of employer-employee friction related to **EAPs** is use of personal information obtained from employees or their care providers. In the EAP literature, authors unanimously agree that *confidentiality* is the cornerstone of a successful program. Employees will not seek help from, nor confide in, a program that does not keep information confidential.

Given this agreement regarding the importance of confidentiality, it would be an error for a company to allow external parties access to information. However, the policy doesn't extend to the company itself. There is apparently no rule or law preventing companies from using confidential information obtained through **EAPs** to prove that an employee is unfit for duty or to defend itself against lawsuits for unfair labor practices, such as termination.

## Privacy and Employee Monitoring

It is now technically feasible to know where every employee is at all times during and after the workday. It is possible to monitor an individual employee's work performance. It is also possible to ascertain whether employees ingested any type of drug, even legal drugs like tobacco and alcohol, in their off-work hours. Depending on one's point of view, such tracking and monitoring is either a gross invasion of personal privacy<sup>15</sup> or a reasonable step to ensure employees' safety and the quality of their work.<sup>16</sup>

Workers are divided on certain elements of the monitoring question. In a Public Broadcasting System (PBS) video production related to employee privacy and **EAPs**, the vast majority of workers felt that their private lives were no business of their employers. However, by almost the same wide margin, workers said they did not want to work with an employee whose performance was impaired by drugs or alcohol.<sup>9</sup> A recent survey by *Inc.* magazine revealed that well over 90% of respondents consider substance abuse an insignificant or very minor problem<sup>17</sup>; in this same survey, 63% of respondents said they do not screen their employees for drug or alcohol use.

Workplace drug testing is a thorny issue for most businesses.<sup>18</sup> In aviation maintenance, the issue of monitoring employees for drug and alcohol use has been settled by congressional mandate (see **REGULATORY REQUIREMENTS**). Other privacy issues like on-the-job surveillance, limitations on off-work activities, and medical screening apply to aviation maintenance organizations just as to other work domains.

## ISSUES AND PROBLEMS

The overriding concern related to substance abuse, frayed family relationships, financial difficulties, organizational frustration, and similar factors is their effects on aviation safety. Of course, the fundamental basis of aviation safety, at least from the maintenance perspective, is the ability of maintenance technicians and inspectors to perform their jobs effectively. Supervisors and co-workers must be capable of:

1. Recognizing unsatisfactory work
2. Identifying the cause(s) of poor work or working relationships
3. Taking whatever actions are appropriate to ensure that the overall safety of their operation is held at a very high level.

In some instances, especially those related to substance abuse, the order of the **first two processes** is reversed. Randomly administered drug and alcohol tests can identify the presence of banned substances in employees and be a deterrent to using drugs and alcohol. The mere presence of certain substances is presumed to be evidence of unsatisfactory conduct. In these instances, employers and workers move directly to **process 3**, above. For most aviation companies, receiving a positive drug test or failing an alcohol test is grounds for dismissal. Some companies try to retain skilled employees by allowing them to seek treatment and, if appropriate, rehabilitation.

In aviation, the **FAA** instituted mandatory drug testing rules in 1988.<sup>19</sup> Testing began in 1990, and the results have been abstracted and reported each year. The incidence of positive drug tests has been consistently low, averaging less than 1% of those tested.<sup>20,21,22,23</sup> About half of the positive tests occur in pre-employment screenings. Security personnel account for over half of all positive drug tests.

In February 1994, the **FAA** published a final rule relating to the Alcohol Misuse Prevention Programs (AMPPs) mandated by statute in 1991.<sup>24</sup> This rule included provisions for alcohol testing similar to drug testing provisions in its previous rule. In August 1994, the FAA issued a final rule amending its anti-drug policy to conform to the 1991 statute.<sup>25</sup> AMPP's have been in place since 1995. Based on the minimum random testing rate requirement posted by the FAA, the violation rate for alcohol misuse is about the same as that for other drugs, i.e., less than 1%.

## REGULATORY REQUIREMENTS

The **FAA** derives regulatory authority from the 1958 Federal Aviation Act establishing the agency. Congress can issue binding statutory requirements on the FAA, but the agency can promulgate any rules it believes fulfill its original statutory mandates, including to ensure aviation safety. In 1988, the FAA established an anti-drug program including requirements for drug testing, employee evaluation, Employee Assistance Programs, sanctions for employees failing to meet drug test criteria, and reporting. Details of this rule are provided later in this section.

In 1991, Congress passed the Omnibus Transportation Employee Testing Act,<sup>26</sup> clarifying and standardizing drug testing and reporting procedures. This Act added alcohol testing as a statutory requirement. In February 1994, the **FAA** issued a final rule implementing the statute's alcohol-testing provisions.<sup>27</sup> In August 1994, the FAA issued a rule incorporating changes the 1991 Act required, such as use of split specimen testing.<sup>28</sup> These rules actually modify certain parts of 14 **CFR** Part 121. Anti-drug rules are contained in Appendix I and alcohol-related rules are contained in Appendix J.

The anti-drug and alcohol misuse prevention programs apply to all aviation employees performing safety-sensitive functions in US territory. However, reporting rules were somewhat relaxed as a result of the 1991 Congressional Act. In their final form, **FAA** rules require the

following types of employers to submit annual drug and alcohol testing reports to the FAA:

1. All Part 121 certificate holders - regardless of the number of employees
2. All employers with 50 or more covered employees as of January 1 of the reporting year
3. Other employers, as required by the **FAA** (The FAA must give a written notice to these employers that they will be required to submit a report).

There are no federal rules or regulations that require aviation maintenance employers (or anyone else) to identify or address problems other than those related to drug and alcohol use. For example, the 1988 **FAA** anti-drug rule required certificate holders to establish Employee Assistance Programs. These programs provide training and information on both the drug and alcohol programs. The scope of the **EAPs** includes the following:

#### Training

1. Provide training to all employees on the identity and effects of banned drugs.
2. Provide initial and recurrent training to supervisors regarding the observable effects of drugs and alcohol and what constitutes reasonable suspicion and reasonable cause (60 minutes each for drugs and alcohol).
3. Document all formal training.

#### Education

1. Display and distribute informational materials concerning drug use.
2. Display and distribute community service "hot line" telephone numbers.
3. Display and distribute written company policy statements regarding drugs, including the consequences of testing positive.
4. Distribute information on the Alcohol Misuse and Management Program.

Unless required to do so by a labor contract or other work agreement, employers are exempt from paying for any therapy, though some employers pay for such treatment as a matter of company policy.

## Anti-drug Rules

Many elements of anti-drug and alcohol misuse prevention rules are identical. For example,

classification and definition of tests is identical for alcohol and drugs. For purposes of this *Guide*, we assume that both drug and alcohol rules apply to all aviation maintenance workers. We first describe major points of the **FAA's** anti-drug rules and then point out any differences between drug and alcohol policies.

## Test Classification

Current **FAA** rules require testing at the following five times:

- **Pre-employment** - Before a person can perform a safety-sensitive function, he or she must be tested.
- **Post-accident** - Within certain elapsed times after an accident (as defined in Part 121 Appendixes I and J), anyone whose performance contributed to the accident or who cannot be discounted as a contributing factor must be tested.
- **Random** - A certain percentage of the employee population must be tested at random times each year.
- **Reasonable suspicion and reasonable cause** - When a trained supervisor believes, based on his/her observations or other information, that an employee may have violated drug or alcohol abuse prohibitions, the employee must be tested as soon as possible.
- **Return to duty** - An employee who has been removed from a safety-sensitive function for violating drug or alcohol policies must be tested before returning to such duty.
- **Follow-up** - An employee identified as needing assistance to overcome a substance abuse problem is subject to at least 6 unannounced tests in the first 12 months after returning to the job. Employees who have violated the drug or alcohol policy, but who are judged not to need assistance in overcoming a substance abuse problem, must be tested at least once during the first 12 months after returning to the job.

## Test Timing

Because the drugs prohibited by this rule are relatively long-lived in urine and can be detected at very low concentrations, the rules allow up to 32 hours to elapse between the time a test is determined to be necessary and when it is actually given. This time period is considerably shorter for alcohol testing.

Random testing rules require a certain percentage of employees covered by the rules to be tested each year. The "random" part of the rule applies to selecting individuals to be tested. Once an employee is selected, the testing is conducted as soon as possible within the time limit for the patchwork type of test. Random sampling is done *with replacement*: a person selected for

random testing is returned to the testing pool. Because selection procedures are random, a particular individual could be tested more than once in a year.

## Test Procedures

One of the big changes in **FAA** rules that the 1991 Omnibus Transportation Employee Testing Act requires is the practice of collecting *split specimens* for drug testing. This requires collecting a primary and smaller, secondary urine specimen; both are sent to approved test laboratories. If the primary specimen is confirmed to be positive, the employee has the right to request that the secondary specimen be tested. In the event of such a request, the secondary specimen is sent to a different laboratory.

Under old rules, only one specimen was collected, and the employee had the right to request a retest in the event of a positive result. Under new rules, the right to request a test of the secondary specimen replaces the right to retest the primary specimen.

Current rules require urine specimens to be tested for the following drugs:

- Marijuana
- Cocaine
- Opiates
- Phencyclidine (PCP)
- Amphetamines.

A *confirmed positive* result for these drugs requires the specimen to contain a minimum volumetric concentration. The concentration constituting a positive result for each drug is listed in 49 **CFR** Part 40.

## Sanctions for Positive Tests

Once the result of an employee's drug test is verified positive by a Medical Review Officer (MRO), that person is immediately prohibited from performing safety-sensitive duties. It is mandatory that a Substance Abuse Professional (SAP) evaluate the employee to determine what assistance, if any, the employee needs. As noted earlier, the employer's responsibility to pay for treatment or other assistance is determined solely by company policy or by labor agreements. If an employee undergoes treatment or rehabilitation, the employer may decide (but is subject to no **FAA** mandate) to return the individual to work. Employees returned to safety-sensitive duties are subject to return-to-duty and follow-up testing requirements.

Two conditions require **permanent** disqualification from performing safety-sensitive duties:

1. **Two verified positive drug tests** - This applies to people who have gone through treatment or rehabilitation.

2. **On-duty use of a prohibited drug** - Any employee determined to have used a prohibited drug while performing a safety-sensitive duty.

## Alcohol Misuse Prevention Program (AMPP)

In most respects, the alcohol testing program that the 1991 Omnibus Transportation Employee Testing Act mandates parallels the anti-drug rules. The only significant differences involve sampling and testing procedures discussed below. Also, pre-employment alcohol testing is voluntary pending changes in the **FAA** rules regarding the conditions under which pre-employment alcohol tests are permitted and required. In other areas, such as the types of tests, test timing; and sanctions for positive tests, alcohol and drug policies are identical. The FAA refers to employers' alcohol education and testing programs as Alcohol Misuse Prevention Programs (AMPPs).

### Prohibited Conduct

The **FAA** considers *alcohol use* to mean consumption of any beverage, mixture, or preparation, **including any medication**, containing alcohol. Under the **AMPP**, the following conduct is prohibited for employees performing safety-sensitive functions:

**Fitness for Duty**-Employees may not report for duty or remain on duty while having a blood alcohol concentration (BAC) of 0.02 or greater. Technically, a BAC of 0.04 or greater is considered to be a violation of the alcohol policy and the individual in violation must undergo an evaluation by a **SAP** before they can return to work. A BAC equal to or greater than 0.02, but less than or equal to 0.039, requires an individual to be immediately removed from safety-sensitive functions until their BAC drops below 0.02.

**On-Duty Use**-Employees may not consume alcohol while performing, **or while immediately available to perform**, safety-sensitive functions. As with other banned substances, consuming alcohol while on duty is grounds for permanent removal from safety-sensitive functions.

**Pre-Duty Use** - For flight crew member, flight attendant, or air traffic controller duties, employees may not consume alcohol within 8 hours of performing their duties. For other occupations, including maintenance, employees may not consume alcohol within 4 hours of performing their duties.

**Post-Accident Use** - Employees with knowledge of an accident involving an aircraft for which they performed a safety-sensitive function may not consume alcohol 8 hours after the accident, unless either of two conditions pertain:

- They have been given a post-accident test

- The employer determines that their performance could not have contributed to the accident.

**Refusal to Submit to a Test** - Employees cannot refuse any required alcohol test. An employee refusing a required test will not be allowed to perform safety-sensitive functions.

## Testing Procedures

Unlike drug tests, which require urine specimens, alcohol tests are conducted with a breath testing device approved by the National Highway Traffic Safety Administration (NHTSA). These NHTSA-approved breath testers are called *evidentiary breath testing* (EBT) devices because their readings can be used as evidence in court proceedings.

Since breath testing is fairly quick, test results can be known immediately. To rule out false positive tests, **FAA** procedures require two consecutive tests to determine whether an employee's **BAC** is above the acceptable level. The first is called a *screening* test. If the screening test shows a BAC of less than 0.02, it is considered negative, and no further testing is done. If the screening test result shows a BAC of 0.02 or greater, a second, *confirmation* test must be conducted after a 15-minute waiting period. The confirmation test's result is used to determine if action should be taken under the FAA rule.

For all types of tests, the **FAA** rule considers a **BAC** between 0.02 and 0.04, while not technically in violation, too high for immediate work on a safety-sensitive function. In such a case, employees must cease safety-sensitive functions until the BAC falls below 0.02, or for at least 8 hours from the time of the test.

## Random Testing Rate

The alcohol testing rule, unlike the drug testing rule, allows the random testing rate to be adjusted according to annual positive test results. Initially, every employer must conduct annual tests on at least 25% of employees covered by this rule and calculate an annual *violation rate*. The violation rate is the percentage of people who either fail or refuse to take the test. The random testing rate is adjusted as follows:

- If the violation rate is 1% or greater, the annual testing rate is increased to 50%
- If the violation rate is less than 0.5% for 2 consecutive years, the random testing rate is lowered to 10%
- If the violation rate is greater than 0.5%, but less than 1%, the random testing rate remains at 25%.

Since most employers are just now implementing their alcohol testing programs, there are no test result data to report.

## Test Timing

Alcohol testing is technically considered a "search", so regulators have taken pains to link such tests to the performance of safety-related duties. For random alcohol testing, all tests must be performed at one of the three following times:

1. While an employee performs safety-sensitive functions
2. Just before the employee is to perform safety-sensitive functions
3. Just after the employee has ceased performing safety-sensitive functions.

For other types of testing, such as after an accident or when there is a reasonable suspicion of alcohol use, the time frame for alcohol tests is different than for drug tests. Alcohol is metabolized at a much faster rate than many drugs monitored in the drug abuse program. Also, those drugs can be detected in urine in extremely low concentrations, while alcohol breath tests have relatively coarse sensitivity. For this reason, time is of the essence when testing to determine **BAC**. The **FAA** rule has various requirements relating to how quickly an employee must be tested for alcohol after a test is mandated. Generally, an alcohol breath test must be conducted as soon as practical after its need is established, typically within 2 hours of the time that such a test is required.

For a delay of more than 2 hours, employers are required to prepare a report describing why the test was delayed. After 8 hours, the employer is to cease attempts to administer the test and document why the test was not conducted.

## CONCEPTS

Several basic concepts are associated with personal and job-related problems. Below, we describe fundamental concepts that readers need to appreciate the discussion and guidelines in this chapter. These concepts are presented alphabetically.

### Corporate Culture

All companies establish policies and procedures (P&P) dealing with common situations and tasks in their work domain. Each company places different emphasis on certain aspects of work. For example, one company might link work procedures to an overall "total quality" policy. Another company might emphasize employees participating in self-managing work teams.

In addition to formal procedures, there are usually formal or informal strictures on employees' behavior. These might apply to dress, fitness for duty, personal habits, etc. Cultural guidelines are often, though not always, linked with the founders' personal philosophy or with the company's public image. For example, employees at Disney World who meet the public are

uniformly polite - in keeping with the Disney image.

The sum of all implicit and explicit policies is a company's corporate culture.

## Denial

*Denial* is the psychological ability to ignore the existence of some condition or attitude because acknowledging its presence is too painful or embarrassing. The first step in dealing with many personal and social problems is simply to acknowledge that they exist. Denial plays a major role in people's inability to deal with substance dependencies, such as alcoholism. At least one author in the field of substance abuse believes that companies practice corporate denial by refusing to acknowledge that some employees have emotional or substance-abuse problems.

## Emotional Disorder

There is a fairly broad range of individual differences related to emotional balance, with names given to emotional characteristics. For example, outgoing people are *extroverts*; shy or receding persons are *introverts*. An emotional disorder occurs when a person's normal emotional balance or composition is temporarily altered. Emotional disorders are distinctly different from so-called mental illnesses.

The stress of common life events can cause temporary emotional imbalances. For example, moving a household from one town to another can be emotionally challenging. Likewise, a family member's sickness or death can radically alter one's emotional well-being. Emotional disorders are more common and more easily dealt with than true mental illnesses.

## Employee Assistance Program

*Employee Assistance Program* refers to a broad range of company programs helping employees deal with various problems, including emotional and financial distress and substance dependency.

## Employment-at-Will Doctrine

The Employment-at-Will doctrine holds that employers can suspend or fire workers at any time for any reason, or for no reason at all. It also holds that employees have no right to know why they are suspended or fired. Although the Employment-at-Will doctrine is considered a 19th century artifact, there are no fundamental, constitutional guarantees against such employer behavior.

## Fitness for Duty

In essence, *fitness for duty* implies a policy whereby employees are expected to be capable of effectively and safely performing their jobs when they come to work. Some companies have explicit fitness for duty policies that forbid, for example, drinking alcohol during lunch or smoking during working hours. In aviation, there are specific legal rules mandating fitness for duty: flight crews must maintain a blood alcohol level at or below .04 to be fit for duty.

A term used synonymously with fitness for duty is "readiness to perform", or RTP. A number of companies sell various types of RTP tests. The theory is that RTP testing gets to the heart of the matter, that is, it determines whether employees are capable of performing their jobs. Typically, RTP tests focus on *worker performance*, rather than a medical or biochemical indicator of the presence of certain substances. There is by no means a consensus among professionals regarding the value or appropriateness of RTP testing. There are many known problems associated with such tests - both methodological and legal.<sup>29</sup> This topic should be closely monitored over the next few years as it emerges in various work domains.

## Mental Illness

Mental illnesses, as opposed to emotional disorders, are profound alterations in the way people perceive and relate to the world. In certain rare, but severe, forms of autism, sufferers completely withdraw from contact with the world. In less severe mental illnesses like clinical depression, sufferers cannot place their own lives and experience in perspective.

Contrary to popular images of mental illness, the behavior of most mentally ill people is benign to other people. Current interpretations of the Americans with Disabilities Act (see **Chapter 10**) hold that certain mental illnesses constitute only a partial job disability. The number of people with mild schizophrenic symptoms in the workplace is likely to increase.

## Privacy

Americans generally assume they have a fundamental, constitutional right to privacy. Various judicial precedents, most stemming from the Fourth Amendment of the Constitution, have confirmed a right to privacy<sup>30</sup> binding upon the government, not to private business.<sup>31</sup> The only privacy rights employees of private companies have are granted through legislation or employment contracts, such as collective bargaining agreements.

## Random Testing Pool

**FAA** rules and federal statutes require certain aviation employees to be randomly tested for drug and alcohol use. Procedures for random testing include using a statistical sampling method to select employees to test. All employees subject to the random testing requirement form the *random testing pool*. The rules allow, and sometimes require, that certain individuals be removed from the random testing pool under certain conditions and returned to the pool under other conditions. For example, an employee performing *all* work outside US territory must be removed from the pool. If the employee subsequently works in US territory, he or she must be returned to the pool.

## Safety-Sensitive Functions

In general, safety-sensitive functions are jobs performed by individuals covered by statutory drug and alcohol testing requirements. These include flight crew members, air traffic controllers, instructor pilots, flight attendants, and maintenance workers. *Safety-sensitive functions* actually refers to functions specified in Appendix I of 14 **CFR** Part 121.

## Substance Abuse

*Substance abuse* is self-defining. It is present when someone abuses a substance. Substances considered in this chapter include alcohol and other legal and illegal drugs; they have the capability to degrade an individual's job performance to the point that quality and safety are compromised.

There is no exact definition of *abuse*. Technically, someone abuses a substance when job performance falls below minimum requirements. However, company and legal policies can define abuse as **any** use of particular substances so that a positive test for certain illegal drugs is grounds for dismissal, regardless of demonstrated effects on performance. Alcohol is the most commonly abused substance in the American workforce.

## Workers' Compensation

Workers' Compensation is an insurance system individual states administer. Employers in each state pay premiums based upon their claims history. Employees injured on the job file claims that are paid by the workers' compensation carrier. Workers compensation is a "no-fault" system; employees do not have to prove the company at fault for an injury. In return for paying claims without proving fault, most states forbid workers from suing employers in civil court for causing - or allowing conditions to exist that caused - their injuries.

## METHODS

Typical human factors methods apply to evaluation and design of human-machine systems. Some human factors methods, such as **task analysis** and **walkthrough evaluation** in **Chapter 1** can identify low-quality or dangerous work practices. However, the personal and job-related factors in this chapter require methods more associated with clinical psychology and counseling than with human factors. To acquaint readers with methods used to address these types of problems, we provide general descriptions below.

Note that no method in this section should be used without professional help.

### Coping Strategies

Individuals vary widely in their responses to stressors. Only certain stressors affect any particular employee. For example, time pressure might cause one person to feel a complete lack of control over work life; another individual might be motivated to increase the level of performance. The point is, the emotional, psychological, and physical effects of stressors tend to be specific and to affect only certain individuals.

One method of dealing with behavioral symptoms is to confront them individually. When an employee begins to exhibit physical symptoms attributable either to job or family pressures, try to teach that person coping behaviors to deal with the particular stressor.<sup>32</sup> There are many common coping behaviors. For example, people who feel anger easily can "count to ten" before responding to an offensive remark. While this is simple-minded, numerous practical techniques can help people cope with the inevitable stress of modern work and family life.

### Dependency Treatment Programs

There are a number of well-known cessation programs for drug and alcohol dependency. The two most-widespread programs are those developed by Synanon and Alcoholics Anonymous. These and similar non-resident programs are essentially group therapy techniques in which individuals in the process of rehabilitation support one another. Most cities and counties have active support groups for various types of substance and behavior dependence. Behavior dependence groups address problems like gambling, eating disorders, overspending, and child and spouse abuse.

Dependency treatment programs are either *resident* or *non-resident*. In resident programs, individuals live away from home in some type of treatment facility. The facilities can be hospitals for severe cases of substance toxicity or habituation; dormitory-like areas; or campus-like, pastoral settings. Usually, resident programs require clients to spend a particular number of days at the facility. During this time, they receive intensive counseling, behavioral alternatives, and practice in a healthful lifestyle. Businesses supporting residential treatment

normally pay participating employees, just as for a hospital stay.

Non-resident treatment programs allow participants to live at home and usually to continue working normal hours. These programs require workers' attendance during off-work hours and usually meet periodically, e.g., twice per week. Non-resident programs are suitable for individuals whose dependence has not reached the point that quality or safety of work is in question. Some dependency treatment programs consist of both resident and non-resident components.

## Individual and Group Counseling

*Counsel* means to advise. Given this definition, some form of counseling has existed as long as people have been able to converse. Beginning in the 19th century, schools of psychology emerged to explain normal and abnormal behavior. One product of this was the introduction of psychotherapy. Based on the medical model of behavior, psychotherapists attempt to identify and heal failed or marginal psychological processes.

The difference between psychotherapy and counseling is one of degree. Both aim to restore full social and behavioral capabilities.<sup>33</sup> The therapeutic experience psychotherapy provides for individuals with severe mental problems, counseling provides for those with less severe problems.<sup>34</sup> For individuals exhibiting severe mental problems, psychiatrists, who are trained physicians, can prescribe strong psychoactive drugs, electro-convulsive shock therapy (ECST), and other equally intrusive treatments. Counselors, on the other hand, depend on verbal and behavioral approaches to addressing clients' problems.

Until after World War II, most counseling was done individually between a counselor and a single client. Immediately after the war, group counseling techniques emerged. Most group methods had a heavy training component, but others, such as the drug use abatement therapy Synanon pioneered, aimed to instill particular types of behavior. A number of eminent psychologists and therapists adopted group techniques and extolled their virtues.<sup>35</sup>

Employee Assistance Programs (EAPs) invariably include some type of counseling. Both individual and group counseling require a trained counselor to identify and help clients solve problems. Counselors must undergo specialized training to be effective. Group counseling is not something that can be undertaken by Human Resource facilitators or others conducting group meetings or focus groups.

## Stress Reduction Techniques

Some emotional and behavioral problems result from stress caused by work- or family related conditions. In **Chapter 1**, we discussed how stressors, such as time pressure, affect individuals differently. Some people have no trouble dealing with such stressors; others exhibit emotional, psychological, or physical symptoms. Stress-induced problems are not unique to any

industry. Because the symptoms are so common, a number of stress reduction techniques have been developed,<sup>36</sup> ranging from simple meditation to biofeedback.

Some ordinary practices are known to reduce effects of mental and physical stress. For example, regular physical exercise increases tolerance for stress. Likewise, regular and healthful eating habits and adequate sleep can decrease stress reactions.

## READER TASKS

There are many tasks that readers could undertake to deal with the work-, family-, and substance-abuse factors we discuss in this chapter. Some obvious tasks, such as establishing a drug and alcohol testing program, are dealt with in the Federal Aviation Regulations (FARs) in detail. Others, such as establishing a company policy for employee counseling, are beyond the scope of this *Guide*. However, there are at least three reader tasks for which we can provide useful guidance:

- Establishing and implementing a policy related to monitoring and evaluating employee performance
- Establishing and implementing a policy related to ensuring employee privacy
- Establishing an Employee Assistance Program (EAP).

We describe each task below and provide appropriate guidance in the following section. Note again that these tasks involve complex legal, ethical, and interpersonal issues. **We do not recommend that maintenance supervisors attempt these tasks without professional assistance.** The best place to look for assistance is your company's Human Resources (HR) department. If your company does not have an HR department, sources in the **WHERE TO GET HELP** section should be able to provide assistance.

### Employee Monitoring/Evaluation

The 1991 Omnibus Transportation Employee Testing Act sets minimum levels of employee monitoring.<sup>26</sup> This statute and subsequent **FAA** rules require that aviation maintenance workers be screened and then randomly tested for the presence of alcohol and certain banned drugs. As noted throughout this chapter, drug and alcohol use (and abuse) are only two of the problems confronting employees and managers. Given the relatively low positive test rate for drugs in aviation maintenance, it seems likely that maintenance employees confront other performance-degrading problems.

Traditionally, alcohol abuse is much more widespread than occupational drug use. We will be able to say more about prevalence when alcohol test statistics become available. Regardless of causes and potential employer responses, it is in employers' legal and fiscal interests to ensure that workers perform safely and effectively. Supervisors and other employees must be alert for signs that a worker's performance is degrading to less-than-acceptable levels. This implies some form of monitoring and evaluation.

## Establishing a Privacy Policy

The other edge of the sword, so to speak, in employee monitoring and evaluation is ensuring workers' privacy. There is no legally accepted fundamental right of privacy for employees, at least at work. However, various laws curtail blatant abuses of employee privacy. While **FAA** rules regarding the confidentiality of drug and alcohol testing records are clear and unequivocal, there are other instances in which employers' treatment of private information is open to interpretation.

Privacy-related disputes often originate because of uncertainty about employers' policies and expectations related to workers' privacy. A clear company policy is the best way to avoid such misunderstandings.

## Establishing an Employee Assistance Program

Since 1988, **FAA** rules have required aviation employers to establish Employee Assistance Programs (EAPs). These EAP requirements are limited to drug and alcohol use and treatment for misuse. Generally, EAPs in other industries address a broad array of performance-related issues, including mental, emotional, financial, marital, and even physical problems.

Regardless of the **EAP's** scope or reasons for establishing it, certain guidelines apply that have been developed over the years that EAPs have enjoyed popularity.

## GUIDELINES

In this section, we provide guidance for the tasks described above.

## Employee Monitoring/Evaluation

The process of monitoring and evaluating employees is established in business. In this *Guide*, we distinguish between two types of intent for monitoring and evaluating:

- Establishing the employee's effectiveness and merit as a worker
- Determining whether the employee's performance is degraded by emotional, physical, substance-abuse, or other factors.

The first type of monitoring and evaluation is used to determine pay increases, promotion possibilities, etc. This is the standard "annual review" activity. The second is concerned with identifying employees exhibiting any performance-degrading problem we address in this chapter. We address the second type of monitoring in these guidelines.

## Employee Behavior

While not universally relevant, a worker's observable behavior usually indicates personal or job-related problems. Behavioral observation looks for sustained **changes** in the way a person does the job or relates to other workers. Supervisors and co-workers should be alert for behavioral changes indicating that an employee is having trouble dealing with personal problems. **Table 12-1**, lists common behavioral changes associated with such problems. **14,37,38,39**

## Manager and Supervisor Training

In the best-case, managers and supervisors know all employees well enough to notice subtle changes in behavior indicating personal problems. Properly identifying behavioral changes requires specialized knowledge and training. For identifying potential drug- and alcohol-related behaviors, the **FAA** requires that managers and supervisors undergo at least one hour of initial training. To identify drug-related behavior, FAA rules require an unspecified amount of recurrent training. There is no FAA training for identifying employee problems, other than those associated with drug and alcohol use.

We recommend that all managers and supervisors receive formal training related to identifying observable effects of common emotional, mental, dependency (including drugs and alcohol), and other problems that can degrade work performance. The **FAA** rule's one-hour training requirement is much less than typical training in other industries. A more reasonable training goal is one-half to an entire day (4-8 hours) of behavioral identification training, appropriately defined as part of implementing and maintaining an **EAP**.

**Table 12-1. Behavioral indicators of troubled employees**

**DEGRADED PERFORMANCE**

- Decreased productivity
- Unacceptable or irregular work
- Diminished ability to concentrate
- Increase in failed inspections
- Sloppy work
- Increase in judgment errors
- Signs of increased fatigue
- Poor reliability

**POOR ATTENDANCE**

- Excessive sick leave
- Increased leave abuse, e.g., before and after weekends
- Frequent and unexplained disappearances and on-the-job absences
- Unscheduled vacation
- Early leaving, extended lunch breaks, and repeated tardiness
- Frequent complaints of vaguely defined illnesses

**CHANGES IN ATTITUDE AND PHYSICAL APPEARANCE**

- Uncharacteristic anger or belligerence
- Unprovoked emotional outbursts and irritability
- Sudden changes in mood
- Blaming others for own shortcomings
- Avoiding colleagues and supervisors
- Deteriorating personal appearance and personal hygiene
- Preoccupation with personal problems, e.g., increased personal phone calls

**INCREASED HEALTH AND SAFETY HAZARDS**

- Increased number of on-the-job accidents or injuries

- Careless handling and maintenance of equipment
- Needless risk-taking
- Disregard for others' safety

## Establishing a Privacy Policy

Personal privacy is an emotional, widely-debated issue. While no fundamental right of privacy exists for employees, at least at work, Congress has granted statutory rights. For example, employers' polygraph testing became widespread during the early and mid-1980's. Because of real and perceived privacy abuses related to these tests, Congress severely limited their use in 1988. Many complaints related to employee privacy stem from misperceptions regarding what the company needs to know, which techniques will be used to get the information, and how confidentiality of information is protected.

The best way to avoid misperceptions regarding privacy is to establish a reasonable company policy and to communicate it to employees. **Table 12-2**, lists major points to be embedded in a company's privacy policy. <sup>16,40</sup>

## **Table 12-2. Components of a company privacy policy**

### **Seek only job-related information.**

Requests for personal information and other intrusions into an employee's private life should be directly related to a job function. The nature of the relationship between the information sought and the employee's job performance should be documented formally.

### **Provide fair notice.**

When the privacy policy is first implemented and when changes are made, employees should be given ample notice of what will be expected of them.

### **Use the least intrusive collection method.**

Regardless of the type of information needed, use the least intrusive method to obtain it. For drug use data, the least intrusive method might be urinalysis. For other types of information, public records might be adequate.

### **Ensure employee file accuracy.**

Check that any information placed in an employee's file is relevant, complete, and accurate. Allow employees to see their files and give them an opportunity to correct erroneous information.

### **Restrict access to employee records.**

In-house access to confidential employee files should be provided only on a need-to-know basis. People requesting such access should be shown only information relevant to their needs.

### **Keep records up-to-date.**

Review employee records periodically. Discard information no longer relevant and benign information that could be misinterpreted. FAA rules regarding record keeping apply to some elements of employees' files.

### **Seek legal advice for unusual techniques.**

Prior to administering a polygraph test, or any type of psychological or honesty test, check the legal ramifications of doing so. For example, most polygraph testing is now prohibited.

## Establishing an Employee Assistance Program (EAP)

Since 1988, **FAA** rules have required every aviation employer performing safety-sensitive functions to establish and maintain Employee Assistance Programs (EAPs). As noted earlier, these EAPs' purpose is to educate employees about FAA drug and alcohol testing rules, as well as to evaluate employees violating the rules. In a more general sense, EAPs offer assessment, referral, and short-term counseling and treatment for a variety of substance abuse and personal problems.

While the **FAA** requires employers to establish **EAPs**, there are no specific requirements for the type of EAP. In this section, we present guidelines for various types (or models) of EAPs and their recommended components. As with other reader tasks in this chapter, **we do not recommend that readers attempt to establish an EAP without professional assistance.**

Much information in this section is taken directly from Masi's<sup>14</sup> chapter in the *American Management Association Handbook for Developing Employee Assistance and Counseling Programs*.

### Types of EAPs

There are four principal types (or models) of **EAPs**. While all contain fundamental EAP elements, each has distinct advantages and disadvantages.

**In-house model** - In this type of **EAP**, the company employs and directly supervises the staff. The program can be housed at the work location or remotely. Perceived advantages of this model are as follows:

- increased company control over referrals and treatment
- potentially lower cost
- potentially better acceptance by unions.

**Out-of-house model** - In this type of **EAP**, the company contracts with a supplier for employee assistance staff and services. As with the in-house model, the program can be housed at the supplier's location, at the work location, or at both. Perceived advantages of this model are as follows:

- ease of startup and implementation
- lower legal liability
- better accountability for services.

**Consortium model** - In this model, several companies jointly fund and develop a

collaborative **EAP**. Services can be provided wherever the consortium deems appropriate. While potentially more difficult to administer than individual programs, the consortium model has the advantage of leveraging each company's resources. This model generally works best for companies with under 2,000 employees, which would include many aviation maintenance companies.

**Affiliate model** - This is the "**HMO** " for **EAPs**. In this model, a company contracts with a single vendor supplying EAP services. The vendor subcontracts with professional staff members wherever EAP services are required. This arrangement allows the vendor to supply services to the company, even in locations where the vendor does not have an office. The big advantage of this model is that the company deals with only one vendor, regardless of the locations needing services. The disadvantage of the affiliate model is that a company relinquishes some control over subcontracted services.

## Essential Components

Regardless of the model, every **EAP** requires the essential components listed below:

- Written policy statement
- Specific services
- Professional staffing
- Confidential record keeping system
- Resource referral network
- Appropriate location
- Funding
- Union support
- Supervisory training
- Employee education
- Special population sensitivity
- Legal oversight.

Each component's complexity and content varies, depending on specific implementation, but some form of each element should be present in all **EAPs**.

**Written policy statement.** A written **EAP** policy helps dispel misperceptions regarding types of services provided. The policy statement should succinctly describe the program's major features, as well as company philosophy regarding the EAP's role in the overall spectrum of employee benefits. As a minimum, the written policy statement should include the following:

- Purpose of the **EAP**
- Organizational and legal requirements
- Employee eligibility
- Roles of various people

- Procedures to access the EAP
- Treatment of client records.

**Specific services.** Every **EAP** should provide its clients a predetermined, specific list of services. By **FAA** rules, the absolute minimum EAP services include evaluation by a substance abuse professional (SAP) and referral to substance abuse treatment professionals. A reasonable minimum set of EAP services includes information, assessment, referral, and short-term counseling for a range of employee problems.

**Professional staffing.** To a large extent, the **EAP** staff's capabilities determine program effectiveness. EAP staff should have at least 2 *years* experience working with substance abuse and formal training, work experience, and applicable licenses and certification in appropriate mental health and counseling fields.

**Confidential record keeping system.** We touched on this topic during discussion of establishing a **privacy policy**. Confidentiality is the cornerstone of every **EAP**. Experience and common sense indicate that employees will not avail themselves of EAP services unless they are certain participation is confidential. **FAA** rules are strict regarding confidentiality of client drug and alcohol test records. It is reasonable to generalize these rules to all client information.

**Resource referral network.** A basic **EAP** service is referring clients to appropriate community resources for counseling and treatment. The EAP staff is responsible for evaluating these resources and for keeping a current list for referrals.

**Appropriate location(s).** Depending on the model a company adopts, an **EAP** might be administered from one or many locations. Each location should be accessible to those using EAP services, including people with disabilities. The location should allow people inconspicuously to enter and leave. It should be maintained and furnished to demonstrate the company's commitment to the EAP.

**Funding.** Other essential **EAP** components, such as professional staff and physical location, require annual funding. A 1992 estimate of the EAP costs<sup>14</sup> is between \$22 and \$35 per employee per year, regardless of the number of employees using the EAP or how often they use it. The per capita funding mechanism means that EAP funding depends only on the company's total employees and provides an incentive for the EAP to be efficient.

**Union support.** As noted in the **BACKGROUND** section, unions historically have not been big **EAP** supporters. One reason for this may be that unions see EAPs as management attempts to bypass union-negotiated bargaining agreements. In heavily unionized industries, like aviation maintenance, it is essential to gain union support for EAPs. This is often accomplished when unions participate in the program's planning and education aspects.

**Supervisory training.** The main **EAP**-related task supervisors have is identifying employees with problems and referring them to the EAP. Supervisors must be well-versed in the EAP's purpose, policies, and list of services. In addition, as noted, supervisors must be trained to recognize employee problems.

**Employee education.** **FAA** rules require **EAPs** to educate employees about prohibited drug-

and alcohol-related behavior and potential consequences of violating the prohibitions. Employees must also be informed of EAP services and policies related to using the services. This education can take many forms, including memos, posters, or lunchtime programs.

**Special population sensitivity.** Although this applies generally to company policies, **EAPs** must be especially sensitive to special populations' needs. These populations often have special emotional and physical needs that (a) must be met and (b) might cause or aggravate the problems the EAP is trying to address. Special populations include women (typically subjected to organizational and pay inequities), cultural groups, physically challenged individuals, developmentally disabled workers, and homosexuals.

**Legal oversight.** **EAPs** are subject to a variety of federal and state laws, regulations, policies, rulings, etc. Some complex legal requirements must be reflected in the EAP's policies. For example, certain state laws require suspected child abuse to be reported to the appropriate state agency. Because of the legal requirements, legal counsel should review all EAP policies and procedures and all staff members should carry professional liability insurance.

## EAP Evaluation

It is common in industry to implement a program and then never to measure its cost or effectiveness. In one sense, results of such an evaluation in aviation are of little interest, since **FAA** rules mandate **EAPs**: each company must have an EAP, regardless of cost effectiveness. However, most companies are likely to implement EAPs beyond the FAA rules' bare minimum requirements. Services these programs offer should provide an adequate return on the company's investment.

As for other company programs, **EAPs** can be subjected to **process** and **product** evaluations.

**Process evaluation.** A process evaluation measures the **EAP's** functioning and efficiency periodically (usually monthly). It is based on program statistics, such as the number of cases, categories of diagnosis and treatment, and locus of supervisory referrals. The process evaluation aims to ensure that the EAP works as intended, i.e., reaches the types of employees it was designed to assist.

**Product evaluation.** The purpose of a product evaluation, sometimes called an *outcome evaluation*, is to determine whether the **EAP** has the desired effects on employee and company performance. A product evaluation examines quantitative and qualitative performance measures that indicate whether the EAP actually helps employee performance. To do this, we might examine the following types of indicators:

- Absenteeism
- Sick leave
- Leave without pay
- Accidents
- Performance appraisals
- Health insurance claims

- Workers compensation claims
- Disability insurance claims.

By comparing the performance of **EAP** clients and non-clients, or by comparing EAP clients' performance before and after they use the EAP, it is possible to derive EAP cost and benefit measures. Citing a study of supervisory performance appraisals for EAP clients, Masi<sup>14</sup> reports a \$13 return for each \$1 spent on the EAP.

Other product evaluation elements include peer review of **EAP** case records. This type of review requires adequate safeguards on the confidentiality of the client information. Peer review can evaluate EAP performance by examining the following:

- Accuracy of diagnosis
- Treatment planning
- Referrals
- Follow-up
- Client and supervisor satisfaction with treatment.

Product evaluations should be conducted quarterly or annually.

## WHERE TO GET HELP

Issues related to personal and job-related factors are broad and complex. Depending on the exact nature of the problem(s) you need to address, a number of organizations can help. The following list is not exhaustive, but provides a good cross-section of available resources in alphabetical order.

The American Management Association (AMA) offers publications, including a handbook, with specific recommendations for employee counseling, drug and alcohol treatment, etc. They also offer various training programs.

**American Management Association**  
**Human Resources Division**  
**135 West 50th Street**  
**New York, NY 10020**  
**Phone: (212) 586-8100**

The American Psychological Association (APA) is the primary national professional organization for psychologists. Various APA divisions addresses particular topical areas. Division 50 deals with substance abuse and other employee problems.

**American Psychological Association**

**Division 50**  
**750 1st Street, NE**  
**Washington, DC 20002**  
**(202) 336-5500**

The Employee Assistance Professional Association (EAPA) is the primary professional association for individuals specifically engaged in Employee Assistance Programs, including counseling and drug and alcohol treatment. They provide information, publications, and referrals to **EAP** consultants.

**Employee Assistance Professionals**  
**Association**  
**2101 Wilson Blvd.**  
**Suite 500**  
**Arlington, VA 22201**  
**Phone: (703) 522-6272**  
**Fax: (703) 522-4585**

The **FAA** Office of Aviation Medicine Drug Abatement Division is the locus of all FAA regulations, policies, procedures, and reporting for drug- and alcohol-related issues. It is also the point of contact for the Federal Air Surgeon.

**Federal Aviation Administration**  
**Office of Aviation Medicine**  
**Drug Abatement Division**  
**400 7th St. SW**  
**Washington, DC 20590**  
**Phone: (202) 366-6710**  
**Fax: (202) 366-7911**

The National Clearinghouse on Alcohol and Drug Information (NCADI) is a federally funded organization tracking research grants, federal and public publications, and other information related to alcohol and drug use and treatment.

**National Clearinghouse on Alcohol and Drug Information (NCADI)**  
**PO Box 2345**  
**Rockville, MD 20847**  
**Phone: (800) 729-6686**

The National Council on Alcoholism and Drug Dependence is the primary national organization dealing with substance dependence. They can offer advice regarding testing, treatment, referrals, etc.

**National Council on Alcoholism and Drug**  
**Dependence**

**12 West 21st Street  
New York, NY 10010  
Phone: (212) 206-6770  
Fax: (212) 645-1690**

The Society for Human Resource Management (SHRM) is the primary professional organization for human resources managers. Human Resource departments administer most Employee Assistance Programs. SHRM can assist in setting up and administering **EAPs**, but only SHRM members can access their services.

**Society for Human Resource Management  
606 North Washington Street  
Alexandria, VA 22314  
Phone: (703) 548-3440  
Fax: (703) 836-0367**

## **FURTHER READING**

Documents listed below contain information pertaining to topics discussed in this chapter. They may or may not have been referred to in the chapter. The citations are grouped under general topics to make finding particular information easier. Within each topic area, all references are arranged alphabetically.

### **Employee Assistance Programs**

EAPA (1991). *EAPs: Value and impact*. Arlington, VA: Employee Assistance Professionals Association.

EAPA (1992). *EAPA standards for employee assistance programs, Part II: Professional guidelines*. Arlington, VA: Employee Assistance Professionals Association.

Grieff, J. (1989). When an employee's performance slumps: Solving workers' problems with counseling. *Nation's Business*, 77(1), pp. 44-45.

HHS (1986). *Standards and criteria for the development and evaluation of a comprehensive employee assistance program*. Washington, DC: US Department of Health and Human Services, Public Health Service.

HHS (1992). *Employee assistance program quality assurance guidelines* (NTIS PB93-140580). Washington, DC: US Department of Health and Human Services.

HHS (1981). *Trainer's manual: Employee supervisory counseling training services program*. Washington, DC: US Department of Health and Human Services.

Kirrane, D. (1990). EAPS: Dawning of a new age. *HR Magazine*, pp. 30-34.

## EXAMPLE SCENARIOS

The scenarios below represent some typical personal and job-related issues one can expect to encounter in the workplace. The purpose of including these scenarios in the *Guide* is to demonstrate how the authors foresee the document being used. For each scenario, we describe how issues raised in the scenario can be resolved. There is usually more than one way to approach these issues, so the responses given below represent only one path the *Guide's* users might take.

As a general rule, always start to look for information by using the Search function. There will be instances that you already know where required information is located. However, unless you frequently use specific sections of the *Guide*, you might miss information pertaining to the same issue located in more than one chapter. The Search will allow you to quickly search all chapters simultaneously.

### Scenario 1 - Drinking Before Work

One of your technicians is on call all night, until tomorrow at noon. You have an unexpected crush and call him at 11 p.m. When you ask him to come in, he tells you that he has been out drinking with his friends and that he is sure he cannot meet the alcohol standard for duty fitness.

#### Issues

1. Can you ask this technician to come in for work, but to take a breath alcohol test prior to performing any tasks?
2. What is the maximum blood alcohol level this technician can have and still perform his job?
3. Did the technician violate any **FAA** rules by going out and drinking with his friends?
4. What must you do, if anything, about this technician's behavior?

#### Responses

1. Issues in this scenario are addressed in the **REGULATORY REQUIREMENTS** section of the chapter. This particular issue relates to the rule requiring maintenance technicians to refrain from consuming alcohol for at least 4 hours prior to performing safety-sensitive functions. A technician on call could be technically considered to be working, thereby forbidding any alcohol consumption. Ignoring this technical point, you would have to determine whether the technician stopped drinking long enough ago to provide four hours of abstinence prior to work. If not, there's no reason to call him in. If you do, it would be wise to administer a pre-work alcohol test.

2. The regulatory maximum blood alcohol concentration (BAC) is 0.04 for random tests. In this scenario, the test would not be random. A BAC at or above 0.02 would require the technician to refrain from performing safety-sensitive functions until one of two things happen:

- His **BAC** falls below 0.02 on a subsequent test
- Eight hours pass from the time of the first test.

3. This is somewhat gray. A person on-call is technically considered subject to the same pre-work restrictions as one scheduled to work. This technician should not have consumed alcohol while on call. If the technician had gone to work without telling the manager he consumed alcohol, he would have violated **FAA** rules. As it is, the employee did the correct thing.

4. We don't directly address this issue in the chapter. The **FAA** rules contain many requirements related to "prohibited behavior," such as consuming alcohol less than 4 hours before scheduled work. In this case, there doesn't appear to be any rule violations. The employee should be at least reprimanded and cautioned against this type of behavior.

## Scenario 2 - Counseling Location

The company has decided to implement an Employee Assistance Program (EAP), and you're responsible for finding a good location. There's a rather large room adjacent to the break area that is used for storage. With a little work, this room could be subdivided and made into nice office and counseling areas. You have extra folding chairs and tables to dedicate to this area.

### Issues

1. Is this a reasonable location for the **EAP**? Why or why not?
2. What are the main characteristics required for an EAP location?
3. Are folding chairs and tables reasonable quality furniture for an EAP center?

### Responses

1. In the **GUIDELINES** section, there is a list of essential **EAP** components. One is a suitable location. This location is inappropriate because it is too close to other employees and work activities for people to enter and leave unobtrusively. People will not use EAP services if they have to pass through a break room full of co-workers to enter the office.
2. The **GUIDELINES** section, we include the following requirements for **EAP** locations:

- Accessible to those likely to use EAP services, including handicapped individuals.
  - Allows people to enter and leave inconspicuously.
3. Folding chairs and tables are not appropriate for an **EAP**. We note in the **GUIDELINES** section that an EAP should be furnished and decorated to demonstrate the company's commitment to the EAP. Folding chairs and tables don't exactly encourage potential clients.

## Scenario 3 - Surveillance

You're getting tired of having people in your organization who seem to be under the influence of drugs or alcohol. You haven't been able to catch anyone using these substances, but you feel pretty sure they avoid being caught. You decide to install some hidden video cameras in the break and locker rooms. You also think that certain people should be monitored outside work, and you hire a private investigation firm to do this.

### Issues

1. Are you doing anything illegal by conducting this surveillance?
2. Are you breaking any **FAA** rules?
3. Is this a reasonable privacy policy?
4. Are there other ways you could acquire information pertaining to such behavior?

### Responses

1. Issues in this scenario are addressed in the **GUIDELINES** section, where we discuss establishing a **privacy policy**. You are probably not doing anything strictly illegal, depending on how zealous the off-work surveillance becomes. Employers are generally given wide latitude to protect the workplace from behavior that can cause unsafe working conditions. You should be prepared to explain why you selected particular individuals for surveillance and should seek legal advice before you go too far with this policy.
2. You are not breaking any rules we provide in this chapter. The **FAA** specifies certain actions to take when someone performing safety-sensitive functions is suspected of being under the influence of alcohol or drugs. However, the rules don't say that you can't go further than simply testing for drugs and alcohol.
3. It is doubtful that this would be considered a reasonable privacy policy unless you take certain actions before placing individual workers under surveillance. All workers should be told that they are subject to surveillance, both on and off the job. It is not then necessary to warn

particular individuals that they are being watched.

4. Many less-intrusive methods provide information for building a circumstantial case for drug or alcohol misuse or dependency. Absentee and medical leave statistics, unplanned or unexplained time off, and accident frequencies can point to drug, alcohol, or other types of problems.

## Scenario 4 - Confidentiality

The boss is upset about one of the secretaries releasing an employee's **EAP** treatment file to an unauthorized supervisor. You've been told to develop a system to keep EAP records confidential. After reviewing the number of files that have to be safeguarded, you decide to set aside a separate file cabinet, lock it, paint it red, and give out only one key that will be signed out whenever someone needs access to the files.

### Issues

1. Is this a reasonable system to keep confidential records out of the wrong hands? Why or why not?
2. What other elements, if any, should your record security system have?
3. Should employees have access to their own records?
4. Can employees request that other people be given access to their records?

### Responses

1. We address most issues in this scenario in the **GUIDELINES** section (see "**Establishing a Privacy Policy**"). Separating and securing confidential records is a good start for a security system. In fact, this solution has simplicity in its favor. This is not enough to safeguard **EAP** records, though it would make them more difficult to access. Simply setting the records apart and limiting physical access doesn't set policies regarding who can have access, when they can have access, whether records can be copied, etc.

2. In the **GUIDELINES** section, we note that a reasonable system for protecting confidential records must have at least three components:

- Restrictions on access.
- Secure storage.
- A method of ensuring accuracy.

In this scenario, we at least partially addressed the second component. How secure a locked file cabinet is might be debatable and does not address security of the computer-based files that

are common to all record keeping systems.

3. Yes. It is an **FAA** rule that employees must have access to their records, if they request it. Letting employees view their records is one way of ensuring their accuracy.

4. We didn't directly address this issue in the chapter. However, **FAA** rules state that employees can request that their records be shared with other specific people or organizations. Under FAA rules, when an employee makes such a request, the company **must** comply.

## Scenario 5 - Treatment and Return to Work

One of your employees failed a drug test about 6 months ago. As part of her rehabilitation, she underwent both residential and follow-up therapy for substance abuse. She has completed her therapy and is to return to work. She was always a skilled and reliable employee, and you're glad to have her back. The therapy program required that she refrain from using any type of drug, including alcohol, for the past 6 months.

### Issues

1. Does this employee have to be tested for drugs before returning to work?
2. Will this person be returned to the random testing pool when she returns to work?
3. Will this employee be subject to more frequent testing than other employees?
4. What will happen if this person fails another drug test?

### Responses

1. Issues in this scenario are addressed in the **REGULATORY REQUIREMENTS** section of the chapter. The answer to the first question is, "Yes." Any employee removed from duty for a drug or alcohol violation must take and pass a drug and alcohol test prior to returning to work and performing safety-sensitive functions. This is known as a "return to duty" test.

2. Yes. All workers performing any safety-sensitive function in US territory are automatically placed into the random testing pool.

3. Maybe. This depends on whether or not a Substance Abuse Professional (SAP) determines that this individual needs assistance in overcoming a substance abuse problem. If so, then this person will be subject to increased testing frequency, i.e., they must undergo *at least 6* unannounced tests in their first 12 months back on the job. If the SAP determines that this person does not need special assistance to overcome a substance abuse problem, then they must undergo a minimum of at least 1 test in their first 12 months back on the job. This is known as

"follow-up" testing. Workers who return to their jobs after such a violation are subject to follow-up testing for up to 60 months.

4. Two confirmed drug violations rate the "death penalty", i.e., permanent removal from performing safety-sensitive functions. This is the **FAA**'s equivalent of the "two strikes and you're out" philosophy.

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