

## **ARTICLE 10**

### **COUNSELING AND PERFORMANCE REVIEW**

The intent of performance review and counseling is to inform and instruct employees as to requirements of performance and/or conduct.

#### **A. Performance Discussion or Review.**

The parties recognize that supervisors are required to periodically discuss and review work performance with employees. Such discussions are not investigations, but are opportunities to evaluate and discuss employee performance and, as such, are the prerogative and responsibility of the Employer. An employee shall not have the right to an MSEA Representative during such performance discussion or review.

#### **B. Informal Counseling.**

Informal counseling may be undertaken when, in the discretion of the Employer, it is deemed necessary to improve performance, instruct the employee and/or attempt to avoid the need for disciplinary measures. Informal counseling will not be written up or recorded. Informal counseling shall take place with only the affected employee and one Employer Representative present.

#### **C. Formal Counseling.**

1. When in the judgment of the Employer, formal counseling is necessary, it may be conducted by an appropriate supervisor. Formal counseling may include a review of applicable standards and policies, actions which may be expected if performance or conduct does not improve, and a reasonable time period established for correction and review. A narrative description of formal counseling will be prepared on a record of counseling form, a copy of which will be given to and signed for by the employee and a copy kept in the employee's personnel file. The employee's signature indicates only that the employee has received a copy, shall not indicate that the employee necessarily agrees therewith, and shall so state on the form. Formal counseling is grievable in accordance with Article 8 through Step Two.
2. An employee shall not have the right to a designated MSEA Representative during counseling.
3. Formal counseling may not be introduced in a Disciplinary Conference except to demonstrate, if necessary, that an employee knew or knows what is expected of them.
4. The distinction between informal and formal counseling shall be maintained and a counseling memo, if any, shall be considered formal.

#### **D. Removal of Records.**

Neither performance review, informal nor formal counseling shall be considered as punitive/disciplinary action nor as prerequisites to disciplinary action. A formal counseling form shall be removed from an employee's file after twelve (12) months of

satisfactory performance during which the employee has not received less than a satisfactory service rating, been the subject of disciplinary action, or received further formal counseling for the same or similar reason(s).

**E. Relationship to Disciplinary Action.**

Nothing in this Article shall prohibit the Employer from taking disciplinary action without the necessity of prior informal or formal counseling against an employee who, in the judgment of the Employer, commits a sufficiently serious offense.