

TOWN OF WEST SENECA



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TOWN SUPERVISOR
SHEILA M. MEEGAN
TOWN COUNCIL
EUGENE P. HART
WILLIAM P. HANLEY, JR.

TO: The Honorable Town Board

FROM: John J. Fenz, Esq.
Town Attorney

DATE: December 10, 2015

RE: Memorandum of Agreement with White Collar Unit
Appendix L to White Collar Contract
Progressive Employee Discipline

Kindly authorize the Supervisor to execute the attached Memorandum of Agreement, whereby the White Collar Unit has agreed to a procedure of progressive discipline of employees covered under the White Collar Contract.

APPENDIX L

THIS AGREEMENT (the "Agreement") made and entered into this 17th day of November 2015 by the Civil Service Employees Association, Town of West Seneca White Collar Unit (the "Union") and the Town of West Seneca (the "Town") (collectively the "Parties").

WITNESSETH

WHEREAS, the Town and the Union have entered into a collective bargaining agreement (the "CBA"), effective beginning January 1, 2011 and until December 31, 2015, which governs the terms and conditions of employment of members of the Union; and

WHEREAS, Article 20, Section 20.9 of the CBA provides for a discipline, discharge and accompanying grievance procedure for employees covered by the CBA; and

WHEREAS, the Parties believe it would be beneficial to supplement aforesaid provisions with respect to issues of employee discipline and discharge and resolving such difficulties results in a benefit to each of the Parties; and

WHEREAS, the Union and the Town engaged in negotiations in order to determine the form and procedure by which such progressive employee discipline and discharge would be conducted; and

WHEREAS, the Parties have reached an agreement with respect to such form and procedure by which employee discipline and discharge shall be conducted and wish to record such agreement in this memorandum, and hereby agree as follows:

1.) Counseling, Discipline and Discharge Procedure; Where a Department Head determines that an employee engaged in any acts or omissions, or patterns of acts or omissions, which constitute incompetency or misconduct, then the negotiated Counseling, Discipline and Discharge Procedure may include the following steps:

Counseling Meeting and Memorandum

Verbal Warning

Written Warning

Suspension

Discharge

- a.) Depending upon the nature of the offense, the Town reserves the right to skip any steps in the Counseling, Discipline and Discharge Procedure.
- b.) The employee shall be required to sign the notice of counseling or discipline. Such signature shall only indicate that the employee received the notice and not that the employee agrees with its comments and allegations. Should an

employee refuse to sign the notice of counseling or discipline, such refusal shall be noted on the form, and the employee's union representative shall initial next to such notation.

- c.) A copy of the notice of Counseling or Discipline will be provided to the employee at the time of the Counseling or Discipline and placed in the employee's personnel file at the Town.
- d.) Within five (5) working days of Counseling, Discipline or Discharge, the employee may submit responsive comments, in writing, to the Human Resources Department/Management Representative. These responsive comments shall also be included in the employee's personnel file.
- e.) For each of the steps of the Counseling, Discipline, and Discharge Procedure, the Department Head shall provide the employee with a Memorandum which specifies the policy reminder and the future expectations of the employee in achieving compliance.

2.) Counseling Meeting and Memorandum; The Department Head shall informally meet with the employee to discuss performance issues and address strategies for improvement or modification. This step of Counseling shall not be considered disciplinary in nature, and therefore shall not be subject to the grievance procedure. The purpose of Counseling shall be for coaching and to remind an employee of performance expectations, appropriate conduct, and consistent compliance with Town policy.

The Counseling Memorandum shall be executed by the employee, the Department Head, a Union Representative, and the Human Resources Department/Management Representative. The Counseling Memorandum shall be provided to the employee and remain effective in the employee's personnel file for a period of one (1) year. A copy of the form of the Counseling Memorandum is affixed hereto as Appendix L-1.

3. Discipline and Discharge Procedure; For each of the steps of the Counseling, Discipline and Discharge Procedure, the Department Head shall provide the employee with a disciplinary form which specifies the behavior or conduct resulting in discipline. This memorandum shall be executed by the employee, the Department Head, a Union Representative, and the Human Resources Department/Management Representative. A copy of the form of the memorandum memorializing the Procedure is affixed hereto as Appendix L-2.

a.) Verbal Warning; if after being provided a reasonable period of time following the receipt of a Counseling Memorandum there is not sufficient improvement or another instance of unacceptable behavior or conduct, then the employee shall be subject to a Verbal Warning from the Department Head.

From the date of the Verbal Warning, the memorandum of Verbal Warning shall remain active in the employee's personnel file for a

period of one (1) year and shall be available to the employee upon request.

b.) Written Warning; if after being provided a reasonable period of time following receipt of the Verbal Warning, there is not sufficient improvement or another instance of unacceptable behavior or conduct, then the employee shall be subject to a Written Warning from the Department Head.

From the date of the Written Warning, it shall remain active in the employee's personnel file for a period of one (1) year and shall be available to the employee upon request.

c.) Suspension; if after being provided a reasonable period of time following the receipt of a written warning there is not sufficient improvement or another instance of unacceptable behavior or conduct, then the employee shall be subject to a Suspension from the Department Head, including a suspension without pay. The length of the suspension shall be at the discretion of the Department Head and Town Board.

From the date of the Suspension it shall remain active in the employee's personnel file for a period of two (2) years and shall be available to the employee upon request.

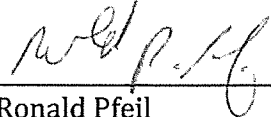
d.) Discharge; If, after being provided a reasonable period of time following the Suspension there is not sufficient improvement or there occurs another instance of unacceptable behavior or conduct, then the employee may be subject to discharge.

IN WITNESS WHEREOF:

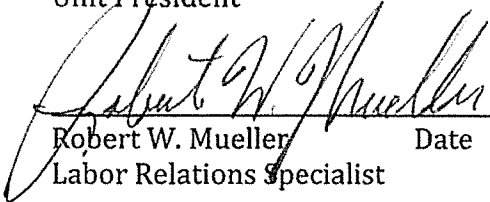
FOR THE TOWN

Sheila Meegan Date
Supervisor

FOR THE CSEA

 11/17/15

Ronald Pfeil Date
Unit President

 11/17/15

Robert W. Mueller Date
Labor Relations Specialist

[To use this form, complete or update any sections in yellow. Remove highlighting before printing]

Appendix L-1

Town of West Seneca Counseling Memo for White Collar Employees

To: Employee
From: Department Head
CC: Union Representative, Human Resources, Employee File
Date: Date
Re: Employee Counseling

This memo serves as notification of a Counseling Meeting due to an area of your performance in which I would like to see improvement or modification. On Date, we met to discuss your performance. The performance issues discussed are addressed below:

DESCRIPTION OF ISSUE: [check one]

<input type="checkbox"/> Absenteeism	<input type="checkbox"/> Conduct	<input type="checkbox"/> Safety violation
<input type="checkbox"/> Policy and/or procedure violation	<input type="checkbox"/> Unsatisfactory job performance	<input type="checkbox"/> Other:

EXPLANATION: [add explanation]

GOALS/CORRECTIVE BEHAVIOR: [add goals]

If I do not see consistent and sufficient improvements in your performance, you may be subject to disciplinary action. *DEPENDING ON THE NATURE OF THE OFFENSE,*

THE TOWN OF WEST SENECA RESERVES THE RIGHT TO MOVE STRAIGHT TO THE DISCIPLINARY POLICY AT ITS DISCRETION.

Acknowledgements of Receipt:

Employee

Date

Department Head

Date

Union Representative

Date

Human Resources

Date

[To use this form, complete or update any sections in yellow. Remove highlighting before printing]

Appendix L-2

Town of West Seneca Disciplinary Form for White Collar Employees

To: Employee
From: Department Head
CC: Union Representative, Human Resources, Employee File
Date: Date
Re: [Verbal Warning, Written Warning, Suspension]

This memo serves as notification of a [verbal warning, writing warning, suspension] due to deficiencies in your performance. On Date, we met to discuss your performance and present at the meeting were HR and Union Representative. The performance issues discussed are addressed below:

[If there have been past discussions about performance issues, mention here. If there is one event that is the cause of the warning, describe the event here]:

ACTION TAKEN: [check one]

<input type="checkbox"/> Verbal Warning	<input type="checkbox"/> Written warning	<input type="checkbox"/> Suspension
<input type="checkbox"/> Other		

DEPENDING ON THE NATURE OF THE OFFENSE, THE TOWN OF WEST SENECA RESERVES THE RIGHT TO SKIP ANY STEPS AT ITS DISCRETION.

DESCRIPTION OF ISSUE: [check one]

<input type="checkbox"/> Absenteeism	<input type="checkbox"/> Conduct	<input type="checkbox"/> Safety violation
<input type="checkbox"/> Policy and/or procedure violation	<input type="checkbox"/> Unsatisfactory job performance	<input type="checkbox"/> Other:

EXPLANATION: [add explanation]

GOALS/CORRECTIVE BEHAVIOR: [add goals]

