

Know Your Rights – Counseling Memorandum

What Is a Counseling Memorandum?

A counseling memorandum (memo) is best understood as a formal written warning. While it is **not considered official discipline**, it **can be referenced by management** when issuing future discipline. This makes it important to take seriously and respond appropriately.

What the Contract Says

Section 6. Actions Which Do Not Constitute Disciplinary Actions

A. Counseling Memoranda:

1. A counseling memorandum is an **instructional communication**, not a disciplinary action.
2. It must be issued **confidentially**.
3. **Employees have five (5) days to submit a written response, which must be placed in their personnel file and attached to the memorandum.**
4. **Only employees in the Maryland Department of Transportation (MDOT)** may formally grieve a counseling memo.

What To Do If You Receive a Counseling Memo

Since a counseling memo is not considered discipline, you **cannot file an official grievance** (unless you are an MDOT employee). However, you **can and should respond** in writing.

Follow these steps:

1. On the signature line of the memo, write: **“See attached.”**
2. Prepare a **written rebuttal** (response) and attach it to the memo.
3. Your rebuttal must be **retained with the counseling memo** in your personnel file as guaranteed under the contract:

MOU Article 15: Personnel File

Section 5. Rebuttal:

“Employees shall have the right to respond in writing and/or through the grievance procedure to



any materials placed in their official personnel file. Any written response by the employee shall be appended to the appropriate document.”

How Long Will It Stay in Your File?

MOU Article 15: Section 8. Retention of Records

- After **12 months**, **counseling memos and letters of reprimand** may not be used to assess future discipline **if no further action has occurred**.
- After **24 months without further discipline**, you can **formally request** removal of the record.
- This applies to **disciplinary actions up to five (5) days of suspension**.

Recommended Action

We recommend submitting a **written request for removal 6 months** after receiving the counseling memo.

If denied, **resubmit every 6 months** until the memo is successfully removed.

How To Ensure It Is Removed

To confirm that the counseling memo has been removed:

1. **Request to review your official personnel file** through Human Resources.
2. You have the right to review your file as stated in the MOU:

MOU Article 15: Personnel File

Section 2. Access:

“An employee and, with written authorization, a representative(s), shall have the right to review his/her personnel files upon request, during normal business hours, with no loss of pay.

Employees may copy any documents in the file and may be required to assume reasonable copying costs.”

Stay informed. Know your rights. Protect your record.



If you have questions or need help drafting a rebuttal or removal request, contact us at local3661@gmail.com