

**SUPERVISOR'S GUIDE  
TO  
COUNSELING**

## TABLE OF CONTENTS

	PAGE
INTRODUCTION .....	9
THE COUNSELING SESSION .....	10
WHEN TO CONDUCT A COUNSELING SESSION .....	11
HOW TO CONDUCT A COUNSELING SESSION .....	12-14
WHO SHOULD ATTEND THE COUNSELING SESSION .....	15
THE COUNSELING MEMO .....	16
WRITING A COUNSELING MEMO .....	16-17
WHAT THE CONTRACTS SAY ABOUT THE COUNSELING MEMO .....	18
SUMMARY OF CONTRACTUAL PROVISIONS AND EMPLOYEE RIGHTS .....	19

## INTRODUCTION

Among the many definitions of counseling is one which says that counseling has, as one of its goals, to guide individuals to a better understanding of their problems and potentialities. In the workplace, counseling is a discussion between a supervisor and an employee about an employee's performance. The discussion may focus on a specific incident, a particular aspect of an employee's performance which the supervisor has identified as needing improvement, or in some instances the employee's overall performance or behavior. The purposes of the discussion are: to communicate the supervisor's concerns to the employee, to determine the cause of the employee's actions, to identify avenues for improvement and/or development, and to ultimately improve the employee's performance.

Counseling is a positive and constructive supervisory tool. Because it involves face-to-face communication between the supervisor and the employee, it is the most direct and the most efficient means available to a supervisor to have a positive impact on the performance of an employee.

Unfortunately, the terms counseling and counseling memo have become sensitive terms which stimulate strong reactions in both supervisors and employees. One reason for this is that counseling is often mistaken for discipline.

Counseling is not discipline. The primary difference between counseling and discipline is that counseling attempts to correct performance through face-to-face communication and problem solving, while discipline attempts to do so through the imposition of a penalty. For most types of performance short-comings, a supervisor must attempt to first deal with the issue through counseling and consider disciplinary action only when counseling fails.

Certainly, there are circumstances which require immediate disciplinary action. These include, but are not limited to, illegal, unethical, dishonest or highly inappropriate activities such as client abuse, verbal or physical assault, accepting a bribe, insubordination, or theft or destruction of State owned property. Supervisors confronted with such serious violations should immediately consult with their personnel and/or employee relations offices.

## THE COUNSELING SESSION

Supervisors often avoid conducting counseling sessions with employees because the supervisors anticipate, sometimes correctly, that the session will be personally unpleasant. Most individuals simply do not enjoy confronting other individuals with judgements about performance. As is true of most people, supervisors have a need to be liked by members of the social groups with which they are associated. Counseling can disrupt the personal relationships which such groups represent. The supervisor often anticipates that this will occur, imagining that the subordinate will react to the session with hostility, or withdraw during the interview into a shell and thereafter ignore the supervisor's presence except when given direct orders. Such reactions by subordinates are not uncommon, and, in fear of that, the supervisor may avoid the discussion altogether.

Avoiding the discussion, however, will only result in the problem and the potential confrontation becoming worse. Counseling is an indispensable aspect of a supervisor's job which, if accomplished effectively, can resolve problems in a positive manner and ultimately help to strengthen the relationship between the supervisor and the subordinate.

It would be dishonest to assure any supervisor that there are techniques which will avoid the unpleasant aspects of counseling in every case. Like any aspect of supervision, counseling involves authority over and responsibility for the actions of other employees. It is precisely this authority over others' behavior that produces the potential conflict; however, such conflict can be *minimized*.

## WHEN TO CONDUCT A COUNSELING SESSION

There is no hard and fast rule as to when counseling is appropriate. As a general rule counseling is appropriate when the established standards for performance and conduct are not being met. However, the supervisor must exercise judgement and discretion when determining whether, and at what point, to counsel.

Certain types of behavior might be a problem after one incident, while others might not become a problem until a pattern develops. For example, an employee who has had excellent attendance for several years may not require counseling due to one day's tardiness. In fact, in such situations, premature attempts at counseling may create a defensive attitude on the part of the employee. In other circumstances, however, the severity or nature of a situation might warrant counseling following one incident, regardless of the employee's work history.

Determining whether counseling is appropriate in a particular situation requires that the supervisor carefully review the facts. Factors which the supervisor should consider in making such determinations include the severity of the incident or behavior and the impact it has on the workplace, the employee's work history, and, if available, the circumstances surrounding the incident or behavior. If after a review and analysis of the available information, the supervisor continues to be concerned or have questions about the employee's conduct or behavior, counseling is both necessary and appropriate. Supervisors are encouraged to consult with their supervisor or personnel or employee relations offices for guidance.

Once the supervisor has determined that counseling is appropriate, it should be conducted promptly. This is important for several reasons. First, it is best to discuss an incident when it is still fresh in the mind of both the supervisor and the employee. If the discussion is delayed, specific details of the incident may fade from memory and result in the discussion focusing only on what happened, rather than on why it happened and what corrective measures will be taken. Second, failure to act promptly may give tacit approval to the employee's behavior, thereby, encouraging the behavior to continue. Finally, an employee is more likely to question the importance of the matter if the counseling session is conducted long after the incident. In addition to minimizing the effectiveness of the counseling, this may cause the employee to be suspicious of the supervisor's motive in conducting the counseling and increase the potential for conflict.

## HOW TO CONDUCT A COUNSELING SESSION

When conducting a counseling session, there are several guidelines you should follow in order to minimize the potential conflict. Most importantly you should not view the session as an opportunity to scold the employee or as a means to threaten the employee with disciplinary action. Your purpose is not to punish someone, but to determine the cause of the circumstances about which you are concerned. In this light, you should view counseling as a problem solving exercise. For example: If the employee has been tardy, what prevents the employee from arriving at work on time? How can the employee remedy the problem? In this respect, it is the supervisor's job to set the tone of the meeting, putting the employee at ease as much as possible.

Certainly, where an employee's performance has consistently fallen below standards, it may be necessary for you to advise the employee that failure to respond to the counseling and perform adequately may result in disciplinary action.

Additionally, there are a number of other guidelines which are helpful to understand when counseling employees.

1. *Be prepared.* Spend some time reviewing the facts and defining your objective for the session.
2. *Counseling sessions should always be conducted in private.* If you have an office, perhaps that is the best place to schedule the meeting. If not, you should seek another private room away from an employee's co-workers or clients of the agency. Failure to provide a private surrounding is likely to create a feeling of humiliation within the employee, which may manifest itself in more, rather than fewer, violations of rules.
3. *Never schedule a counseling session with an employee when you are rushed with other duties.* It will leave the impression that your concern is minimal if you are frequently interrupted, must constantly look at your watch, or you rush the employee out after only a few minutes and before your discussion is complete.
4. *When an employee enters your office, act in a manner consistent with your normal demeanor.* If you are normally relaxed with an employee, be yourself. Otherwise, the employee will believe that the discussion implies a personal conflict. This should be avoided.
5. *Be direct and candid.* After greeting and making the employee comfortable, go directly to the reason for the meeting. Do not say, "Anything interesting happen on the ward today?" Questions such as these simply make employees suspicious of your motives.

6. In broaching the issue(s), you should *explain the exact nature of your concern*, making clear what has been observed and why it is important. For example, you might say: "I received a report today that you were rude to two patients on the ward. Obviously, the report concerns me. I wanted to take this opportunity to discuss the report with you and hear from you what happened." If you already know the names of the patients, you might have added that to the introductory remarks. Your concern should be direct and open with the employee.
7. *Where employees are cooperative, your job will be confined to determining what the employee's view of the incident is.* For example, if the employee responded to your statement, by saying, "Yes, that is true," you should follow-up by asking: "Well, could you give me the details from your point of view? How did this come about?"
8. *Some employees may be hostile. In those cases, you should remain calm, speaking in measured voice.* Because someone yells at you, for example, does not mean that you must yell back. You are the supervisor and to control the meeting you must control your emotions and reactions. Rather than reacting to the employee's hostility, you should return the employee's attention to your concern: What occurred on the ward? Why did it happen? How can we improve performance to insure it doesn't happen again? If the employee continues to behave in a hostile or abusive manner toward you, you should calmly advise the employee that such behavior may result in disciplinary action. If the behavior continues, you should halt the session and discuss the matter with your supervisor or the employee relations or personnel office. It should be noted that merely disagreeing with the facts as presented is not necessarily hostile behavior on the part of the employee.
9. Focus on the behavior of the employee, not the employee's "*character*" or "*morality*." An employee is more likely to understand that he/she has behaved incorrectly in a particular circumstance than to accept a supervisor's assertion that his/her basic character is unacceptable. For example, it would be better to say to an employee "Your behavior on the ward today was rude" rather than to say "You are a rude person."
10. *Be a good listener.* Give the employee the opportunity to explain his/her version of the incident or circumstances about which you are concerned.
11. *Keep an open mind* during the counseling session. If the discussion reveals your information was incorrect, or the employee's explanation is satisfactory, say so to the employee. Even where the employee's explanation is not satisfactory, the employee is less likely to accept your judgement if you have not even given him or her the opportunity to explain.

12. In listening to the employee's version of the incidents, a number of possible explanations may emerge. *After hearing the employee's explanation, you must decide whether other actions may be appropriate in addition to reinforcing to the employee what the rules are.* For example, the employee may need additional training, or perhaps reassignment so a supervisor can give closer instruction. You may not wish to make those decisions at that time but ask to see the employee at a later date after you have considered the options with other supervisors in your unit.
13. If the employee indicates that the problem is personal, or if you have some indication that the problem is other than work related, *tell the employee about available assistance, such as the Employee Assistance Program (EAP), which can help employees deal with personal problems.*
14. *Reach an understanding on the corrective action which will be taken and set a definite follow-up date.*
15. At the conclusion of the counseling session, you should thank the employee for seeing you and extend yourself to the employee should further problems of this nature arise. *Ultimately you want the employee to know that you are available to assist in solving such problems before they erupt into the types of incidents which prompted the counseling session.*
16. *If you intend to confirm the session in writing, advise the employee that you intend to do so.*

## WHO SHOULD ATTEND THE COUNSELING SESSION

Many employees will ask that they be represented by their union during a counseling session. The contracts do not provide for union representation in a counseling session, except that employees represented by Council 82 are entitled to union representation in counseling situations where more than one supervisor is present. Under normal circumstances, when only one supervisor is present, the employee is not entitled to such representation.

---

However, since counseling is intended to be a discussion between a supervisor and an employee, it is generally best to confine attendance at the session to the supervisor and the employee. The presence of additional parties may increase the perceived level of conflict and pressure either or both sides into posturing, thereby, decreasing the likelihood for open and constructive dialogue. Supervisors should consult with their personnel or employee relations offices for agency guidance on this topic.

An employee is entitled to representation when the employee is the "target" of a disciplinary investigation. When counseling an employee, the supervisor has determined that discipline is not appropriate; therefore, the employee is not a "target of discipline" and does not have the right to representation. Nonetheless, if during the counseling session the employee does disclose information which would warrant disciplinary action, the supervisor should halt the session, advising the employee of the right to representation before continuing. Questions concerning this issue should be directed to your supervisor or the personnel or employee relations offices.

## THE COUNSELING MEMO

In some instances, the supervisor may feel it is appropriate or necessary to follow-up the counseling session with a memo. As with the counseling session, there are no definitive rules as to when it is appropriate to issue a counseling memo. Each case must be handled individually and a determination made based on the facts and circumstances surrounding the case.

Prior to issuing a counseling memo, the supervisor should carefully consider the need for such action. For most persons - supervisor and subordinate alike - the written record may represent a higher level of conflict than the actual interview. Many employees will become defensive at receiving one at all. Therefore, it is best to reserve sending memos for those situations which warrant it.

Generally, a memo is both appropriate and necessary when: 1) previous counseling has failed to result in improvement; 2) you do not have confidence that the employee will correct the improper behavior without further encouragement; 3) the seriousness of the situation requires documentation that the session was held; and/or, 4) a multi-part plan for improvement was discussed during the session and the memo serves as written confirmation and a reminder of the plan.

If at the end of the counseling session, you have determined that a counseling memo is necessary, you should tell the employee of your decision before concluding the session. Giving the employee such notice can help to blunt a hostile reaction, at least to the extent that the employee is not surprised by the written summary. If in doubt as to whether a memo is appropriate, you should confer with your supervisor or the personnel office after the session.

When a counseling memo is sent, it should be sent almost immediately after the session, generally within 24 hours. Otherwise, both the supervisor and the employee are likely to forget important aspects of the discussion. Additionally, inasmuch as your purpose in sending the memo is to reinforce understandings reached during the counseling session, it is widely accepted that such learning takes place more effectively when the reinforcement (i.e., the memo) is close to the initial event (i.e., counseling session).

## WRITING A COUNSELING MEMO

In several ways, writing a counseling memo is not dissimilar from conducting the counseling session itself. First, a counseling memo is a summary of the counseling session which should be addressed and delivered (or sent) to the employee. Second, the memo is similar in tone to the session. It should not be punitive. In this respect, it should not be characterized as a disciplinary notice or letter of reprimand; it is neither.

When writing a counseling memo, the following guidelines should be followed:

1. *Write the memo to the employee.*
2. *Be concise and clear.*
3. *The memo is a summary of your counseling session. Do not include other matters in the memo which were not discussed during the session.*
4. *Include the following sections:*
  - a. *A statement of the reason for and the date, time and place of the meeting. (Be as complete as possible in describing the problem.)*
  - b. *The employee's response to your concerns. This is important as it demonstrates to the employee that you were actually listening during the counseling session.*
  - c. *The manner in which the employee will seek to improve performance.*
  - d. *Provisions for follow-up consultations.*
5. *Do not characterize the memo as discipline or as a penalty.*
6. *The tone of the memo should be supportive and factual. Do not write it in a punitive or derogatory manner.*
7. *Show on the memo the names of those persons who will receive a copy of the memo. Include personal history folder.*
8. *The memo should not be widely distributed. Supervisors should consult with their supervisor or the personnel or employee relations office for agency policy regarding distribution.*

If you need assistance in constructing the memo, do not hesitate to speak with your supervisor or, the personnel or employee relations office. Some agencies require supervisors to consult with these individuals before the issuance of a counseling memo.

## WHAT THE CONTRACTS SAY ABOUT THE COUNSELING MEMO

There are contractual provisions associated with the issuance of counseling memos.<sup>1</sup> First, all major State contracts require that counseling memos be placed in an employee's personal history folder and set forth specified periods of time after which the memos may be removed, if appropriate.

Second, some of the contracts require that the employee sign the memo to show receipt, or that it be sent to the employee's address of record, return receipt requested. Even where this is not required, the supervisor should request that the employee sign the memo to acknowledge receipt (not necessarily agreement); if the employee refuses to sign, it should be noted on the memo.

Finally, employees have the right to respond to the memo in writing. If the employee chooses to file a response, such response must be placed in the personal history folder with the original memo.

Supervisors should contact their personnel or employee relations offices when specific questions of this nature arise.

---

*This section provides a general overview of the contractual provisions associated with the counseling memo. A detailed summary of contractual provisions governing the counseling process is provided in the Appendix to this handbook.*

10.6 Counseling of employees shall be carried out pursuant to Appendix "C" and grievances regarding the application of said Appendix shall be processed pursuant to Article 7, paragraph 7.1 (b),

## **Appendix "C"**

The items in this Appendix are reviewable pursuant to: Article 7.1 (b) of the Security Services Unit Agreement.

**Counseling:** Counseling is an effort on the part of a supervisor to provide to an employee, positively or negatively, significant feedback regarding on-the-job activity. It is meant to be a positive communications device, clarifying what has occurred and what is expected. Counseling is not disciplinary, having constructive goals, such as assisting in employee development, or teaching or modifying behavior. It involves face-to-face contact, and out of respect for the employee and the process, must be conducted in private. Counseling is a direct technique that should involve two individuals, the supervisor and the subordinate. If the counseling situation warrants that more than one supervisor be present, the employee being counseled must be afforded the opportunity to invite a Union representative who is readily available to attend the counseling session.

Counseling is not viewed as a routine matter. When contemplating the issuance of a follow-up memo, supervisors should consider if that level of formal response is necessary or appropriate. Not all incidents require counseling; not all counseling requires the issuance of a memo. Consideration of this action may be appropriate for discussion with higher levels of supervision and/or the personnel department; if such a memo is issued to an employee, it must accurately describe the discussion and clearly establish expectations for the future. Overall, counseling is viewed as a supportive supervisory means of communicating with employees.

An employee is not required to sign a counseling memo. An employee may be asked to acknowledge receipt of a counseling memo by signing it prior to its placement in his official personal history folder. Such signature does not necessarily indicate agreement with the contents of the memo. The employee has the right to file a response to a counseling memo in his official personal history folder. Grievances arising out of the application of this Appendix shall be processed pursuant to Article 7, paragraph 7.1(b).

## DEALING WITH DIFFICULT PEOPLE-4 BASIC STEPS

### 1. DEAL DIRECTLY WITH THE PROBLEM

- A. DEAL WITH THE PROBLEM AS SOON AS POSSIBLE.
- B. ADDRESS THE EMPLOYEE HONESTLY IN A CARING MANNER.
- C. FOCUS ON THE SPECIFIC BEHAVIOR NOT THE PERSON'S ATTITUDE.

### 2. CONTROL YOUR RESPONSE

- A. REMAIN CALM.
- B. YOUR GOAL IS NOT TO CHANGE HIS OR HER PERSONALITY, BUT TO CHANGE THE EMPLOYEE'S ACTION OR INACTION ON THE JOB.
- C. DO NOT BECOME ANGRY OR UPSET. IF THIS BEGINS TO HAPPEN, STOP; TAKE A DEEP BREATH AND/OR A TIME-OUT.

### 3. LISTEN AND ACKNOWLEDGE THE OTHER PERSON

- A. GIVE THE EMPLOYEE AN OPPORTUNITY TO EXPRESS HIS OR HER VIEW.
- B. REASSURE THE EMPLOYEE YOU ARE LISTENING.
- C. PARAPHRASE YOUR CO-WORKER'S FEEDBACK TO DEMONSTRATE YOU HEARD AND UNDERSTOOD WHAT HE OR SHE SAID.
- D. ACKNOWLEDGE THE VALIDITY OF THE FEELINGS, NOT THE BEHAVIOR.

### 4. FOCUS ON SOLVING THE PROBLEM

- A. EXPLAIN THE SITUATION.
- B. SPECIFY HOW YOU WOULD LIKE THE BEHAVIOR TO CHANGE.
- C. EXPLAIN THE POTENTIAL CONSEQUENCES IF THE BEHAVIOR DOES NOT CHANGE.

## Duty Bound to Report

- 1) sexual misconduct
- 2) Contraband
- 3) Use of force.
- 4) Felony Arrest
- 5) Sleeping on Armed Post.
- 6) Lying & falsifying Documents
- 7) Arrest involving Drugs/Narcotics.

New York State Department of Correctional Services  
[REDACTED] Correctional Facility

Memorandum

To: [REDACTED]

From: [REDACTED]

Date: [REDACTED]

*NFB*

Subject: Counseling Memo

First, I would like to explain to you that this counseling session is not disciplinary in nature, but a tool to provide you with significant feedback regarding your on-the-job performance and is intended to assist you in the future discharge of your duties.

On the evening of [REDACTED] you were the supervisor in charge of a cell move of inmate [REDACTED] B-4-18 to SHU F-1-18. This move was of an inmate that was involved in an assault on staff a short time earlier. This move was made without the use of a video camera, which was a violation of Directive 4933, Hand Held Videotaping for Security Purposes and [REDACTED] memorandum, "Video Taping Movement to SHU". Even though the cell move was completed professionally and without incident, the non use of the video camera put yourself, the escorting officers and the facility at risk for fictitious allegations of abuse by this inmate and subjected the Department to possible unnecessary litigation. I know you were asked by Sgt. [REDACTED] to make this cell move, as he was busy interviewing Officer [REDACTED] in the hospital, but taking on the responsibility of the escorting supervisor it was incumbent on you to ascertain all the pertinent information.



Again I want to stress upon you that this counseling is not disciplinary but just an assessment to better understand our responsibilities and sharpen our supervisor skills.

You are also notified that in accordance with Article 10.6 and Appendix "C" of the agreement negotiated between the State of New York and N.Y.S.C.O.B.P.A., (your union); you have the right to submit a written rebuttal to this memorandum in your personal history folder.

My signature below constitutes a receipt for this memorandum only, and in no way an admission of guilt, or an agreement with its content.

  
Correction Sgt. 

  
Date

  
Correction Lt. 

  
Date



GLENN S. GOORD  
COMMISSIONER

STATE OF NEW YORK  
DEPARTMENT OF CORRECTIONAL SERVICES

MEMORANDUM

TO: [REDACTED]

FROM: [REDACTED]

DATE: May 1, 2001

SUBJECT: FORMAL COUNSELING - APRIL 30, 2001

As a result of a complaint received from [REDACTED] of the last session in which you were the Drill Instructor, you were the subject in an investigation by the Office of Diversity Management.

The complaint indicated that you made comments construed as creating a hostile work environment in the nature of sexual innuendoes which, although denied by you, were substantiated by others. Such comments are contrary to the rules and protocol for Drill Instructors at [REDACTED] and are not allowed or tolerated. A person in your position of Drill Instructor is held to a high standard that cannot be set aside.

You are hereby being formally counseled on these statements with the hope that you will refrain from such activity in the future.

[REDACTED]

copy

**CORRECTIONAL FACILITY**

*INTERDEPARTMENTAL COMMUNICATION*

2001 MAR 27 PM 2:31

RECEIVED OFFICE

*NK*

To: Correctional Officer [redacted]  
From: [redacted]  
Subject: Counseling Memorandum  
Date: 3/14/01

Page 1 of 2

This memorandum is to confirm my counseling session with you on March 13, 2001. I informed you that you were remiss in your duties .

At first you requested to be represented by a Union Official. I explained that this was a counseling session and not disciplinary in nature. As such I did not believe you needed a Union Official. The people present were myself ([redacted]) and you ([redacted]).

I explained this counseling session is based upon information in your memo dated 3/1/01 addressed to Sergeant [redacted], subject inmate [redacted]. I then showed you a copy.

In this memo you state that inmate [redacted] asked you to sign a disbursement form and you then checked his ID, signed it and then returned it back to the inmate to be carried to the school gate officer.

You also state that inmate disobeyed your order and that you gave the inmate a choice, "That he could go back to his cell and stay there for a couple of days on his own, or he could go back and lock in under keep lock and a misbehavior report. its your choice. He choose to go back on his own."

I showed you a copy of the Memo that explained the Facility Policy to be used in the processing of disbursement forms ( 5/24/00 by [redacted], subject Disbursement Forms). I explained that once a Disbursement is signed that the officer must hand carry it to the school gate and personally turn it over to the school gate officer.

You explained to me that you did every thing in the memo except carry the disbursement form to the school gate. You ordered the inmate to give you the form upon reaching the gate. You explained that after this memo came out, you personally spoke to [redacted] and asked about carrying inmates property to the school gate when processing the disbursement form. You stated that your under standing with this conversation was that officers did not have to carry inmates property but did have to personally turn it over to the school gate officer. " I believed property and disbursement forms were both meant "

APPROVED FOR PERSONAL HISTORY ADMINISTRATION

[redacted]

2-27-01

**CORRECTIONAL FACILITY**  
**INTERDEPARTMENTAL COMMUNICATION**

Page 2 of 2

I then explained that you misunderstood and that inmate property such as letter and legal work do not have to be carried but the form after being signed must be kept in the officer possession according to this memo.

You requested to be allowed to talk to [REDACTED] about this and I told you that you would be able to see the DSS tomorrow as he was not on duty at this time.

I then showed you other memos , Dated 8/15/00 by [REDACTED] subject Inmate Discipline and Dated July 3, 1996 by [REDACTED] subject Inmate Confinement due to misbehavior along with Directive 4932 highlighted sections 250.2 and 251.1.5 and showed you section 8 of the employee manual.

I explained that Departmental Policy does not allow instance justice and that you may not give an inmate a choice of staying in a couple of days or a misbehavior report.

I allowed you to respond and you stated that you do not believe you did any of the memo dated 8/15/00 subject inmate discipline. At no time did you pull fuses, burn any one for chow or recreation. you said you believed you were giving the inmate a break. you believed the inmate had done some thing wrong and that you counseled him and gave him a break on a misbehavior report . You believed that you saved him five dollars and that the inmate could stay in honor block.. You said you were going to issue a report but the inmate spoke to you and pleaded to please not write a report. You decided that a counseling would be the right way to go.

I then told you that I did understand what you tried to do but in the future you must write a misbehavior report for serious misbehavior <sup>OR</sup> a verbal counseling.

I explained to you that you may submit a rebuttal to this memo and that it would be placed in your personal history folder. I also gave you copies of all memos and directive 4932

[REDACTED]  
Correction Sergeant

I have received a copy of this memorandum. My signature is not an admission to, or an agreement with the above statement, only that I have received a copy.

[REDACTED]  
Correctional Officer

Original Officer [REDACTED]  
CC Employee Personnel Folder

APPROVED FOR PERSONAL  
HISTORY FOLDER  
[REDACTED]

State of New York – Department of Correctional Services

**CORRECTIONAL FACILITY**

*Interdepartmental Communication*

**TO:** Correction Officer XXXXXXXXXXXXXXXXXXXX  
**FROM:** Sergeant XXXXXXXXXXXXXXXXXXXX  
**SUBJECT:** Follow up to Counseling Session held XX/XX/XX  
**DATE:** XX/XX/XX

---

This memo will serve to confirm and reinforce the counseling session I held with you on XX/XX/XX, in the Conference Room, with only you and I present.

This counseling session stems from an incident that occurred on XX/XX/XX, when you were assigned to the Messhall, and you submitted an incorrect count slip to the Watch Commander for the 11:00am master count.

As a result of your incorrect count, the facility was locked down and all inmate movement was stopped. The noon meal run and afternoon program run were delayed by over one hour, as staff were sent back to all units to conduct a recount, while the first count had to be recapitulated by the Watch Commander and Administrative Lieutenant. Hub Superintendent XXXXXXXXX and Superintendent XXXXXXXXX were notified of the miscount and subsequent afternoon program delay, as was the Facility OD, Deputy Superintendent XXXXXXXX, Captain XXXXXXXX and myself.

It was only during the second count that your mistake was discovered. You had signed and submitted an out count slip indicating that you had 41 inmates assigned to the messhall. The other sheet you also signed and submitted indicated that you had 42 inmates assigned to the messhall. I then showed you copies of the incorrect count slips you had submitted.

During the subsequent recount, it was ascertained that all inmates were in fact accounted for, and that you had submitted an incorrect count sheet, necessitating the facility lock down.

In speaking with you regarding this incident, you admit that you should have double-checked your count prior to turning it in, however, during the count you had to make a change and add one inmate. You admittedly made the change on the in-count sheet, but not on the cover sheet.

I then explained to you that you are responsible for submitting an accurate and correct count. If you feel that something is wrong, you should not sign the count slip until something is wrong, you should not sign the count slip until you are satisfied with its content. I then showed you the last line of the count slip which states, " I certify this count to be correct."

At this point, I directed your attention to Sections 6.9, 6.13 and 7.11 of the "**State of New York Department of Correctional Services Employees' Manual,**" which state in part:

- 6.9 "The Superintendent shall be responsible for having a correct count of inmates and for seeing that counts are taken in such a manner..."
- 6.13 "Employees shall cooperate in maintaining the security and good order of the Facility and shall aid in the habilitation of inmates. Each employee is responsible for the efficient performance of duties assigned..."

7.11

"An employee in charge of a group of inmates will keep a roster of their names and numbers, take and submit accurate counts at prescribed times,..."

I also showed you a copy of **Directive #4945, "Inmate Counts"** and directed you to Section III, paragraph A, which reads in part:

"An employee assigned to supervise inmates is responsible for knowing the number of inmates assigned...The counting employee is **solely** responsible for the accuracy of counts that is, for reporting the absence of any inmate on an "out" count...and for reporting immediately any inmate whose absence is not accounted for."

You appeared very receptive toward this counseling, and admitted your mistake. You further admitted that you should not rush in the future and that you will attempt to make every effort to double check your count slips prior to handing them in.

I ended the session by advising you that in the future, you must count all of the inmates assigned to the messhall, and not allow your attention to be diverted in a way that would allow you to make a critical error when recording the count on paper. You should check and double-check each and every count prior to signing and submitting it.

You concurred with my direction and assured me that this type of incident would not occur again. You also stated that in the future you would seek assistance from the area supervisor if necessary.

I then advised you that in accordance with the agreement negotiated between the State of New York and your bargaining agent (N. Y. S. C. O. P. B. A.), you have the right to submit a written rebuttal to be included with this memo in your personal history folder.

\_\_\_\_\_  
XXXXXXXXXXXXXXXXX,  
Sergeant

\_\_\_\_\_  
Date

My signature below is not an admission of guilt nor agreement with the content of this memorandum, and serves only to acknowledge receipt of this counseling memorandum.

\_\_\_\_\_  
XXXXXXXXXXXXXXXXX,  
Correction Officer

\_\_\_\_\_  
Date

cc: personal history folder

State of New York – Department of Correctional Services

**XXXXXXXXXXXXXXXXX CORRECTIONAL FACILITY**

Interdepartmental Communication

**TO:** Correction Officer  
**FROM:** Sergeant  
**SUBJECT:** Follow up to Counseling Session held XX/XX/XX  
**DATE:** XX/XX/XX

---

This memo will serve to confirm and reinforce the counseling session I held with you on XX/XX/XX, at approximately 2:20pm, in the Housing Sergeant's Office, with only you and I present.

This counseling session stems from several separate incidents, including some that I observed on XX/XX/XX, when you were assigned as the A-Block Officer for the 8am-4pm shift, and I was assigned as the Housing Sergeant. At approximately 8:15am, I entered A-Block while making my supervisory rounds. I entered the block following a company of inmates returning from the messhall. At that time, I observed you, Correction Officer XXXXXXXXXXXXX, seated at your post at the block officer's desk, reading a newspaper. Upon seeing me, you folded the newspaper and placed it into your desk.

When I spoke to you about this action at your post, you stated that you were aware that you shouldn't be reading the newspaper, that you made a mistake and you were sorry.

I then attempted to sign into the block logbook, but I noted that you had not yet made your required entries for the beginning of your shift. I instructed you to do so, and then left the block.

At approximately 11:23am, on XX/XX/XX, I again entered A-Block on rounds. Prior to my entering the block, I clearly heard the PA announcement for all blocks to run chow. I also stopped at the control center to ensure the call had been made, however, when I entered A-Block, I observed you standing near the block officer's desk. Several company officers were gathered around the desk, and a newspaper was prominently visible on the desk.

I then stated to you "That's the second time today for that newspaper." and then I asked, "How come we're not running chow?"

I was then told, "They haven't called it yet."

I explained to you that they had, that I had heard it called, and that I had personally checked with the control center prior to coming to the Block. I then went upstairs and was subsequently followed by the company officers.

During this counseling session, I reviewed my observations from today and other days that I had verbally counseled you.

You admitted that you were wrong for reading the newspaper and that you had already apologized for that and, you in fact apologized again. You stated that you felt that a formal counseling was not necessary, and wondered what angered me enough to make me consider that this should be a formal counseling.

I explained to you that part of my responsibility as a supervisor was to take corrective action to bring your job performance up to acceptable levels. I further explained to you that my previous attempts to use verbal counseling to enhance your job performance have been ineffective, and that I could no longer wait to cover every contingency/problem with a verbal counseling.

You again voiced your displeasure with my decision to formally counsel you, and stated that I have now got your attention and this will not occur again.

I explained to you that your actions this morning, (reading a newspaper during mass movement of inmates), not only endangered you, but other area staff members, inmates and the security of the block itself.

At this point, I directed your attention to Section 7.1 of the "**State of New York Department of Correctional Services Employees' Manual,**" (copy attached) which states in part:

7.1 Every employee, while on duty, shall devote all his time and effort to the performance of his duties...When supervising inmates, an employee shall not allow his attention to be diverted in any way which interferes with the maintenance of supervision.

I also showed you a copy of **Directive #4091, "Log Books"** (copy attached) and directed you to read and familiarize yourself with the Directive, including Sections II and III, dealing specifically with the required entries.

I also spoke with you regarding an order from Deputy Superintendent XXXXXXXXXX that states that newspapers are not allowed in the facility beyond the XXXXXXXXXX gate. I told you that this order is still in effect.

In the past, I have had to verbally counsel you, in your capacity as block officer, concerning deficiencies in securing inmates returning to the block, issuing passes to inmates leaving the block, and the general supervision of your assigned area.

I also explained to you that as the block officer, you are responsible to ensure that company movement begins and is conducted in an expedient manner. This responsibility includes directing other Correction Officers to begin and continue the company movement.

I ended the session by advising you that the position of a block officer is a serious responsibility. The block officer is accountable and responsible for approximately 300 inmates and 10 Correction Officers. This position alone is a very serious burden, however it is extremely hard when coupled with your age. I said that I hoped you would see and accept how serious this responsibility was, and act accordingly.

This memorandum has been prepared with the expectation that it will prompt you to perform your duties in an acceptable manner, one that is conforming to Departmental Standards and demonstrates your acknowledgement of the seriousness of your responsibilities.

You are hereby notified that in accordance with the agreement negotiated between the State of New York and N. Y. S. C. O. P. B. A. (your bargaining agent), you have the right to submit a written rebuttal to be included with this memo in your personal history folder.

XXXXXXXXXXXXXXXXXX,  
Sergeant

\_\_\_\_\_  
Date

My signature below is not an admission of guilt nor agreement with the content of this memorandum, and serves only to acknowledge receipt of this counseling memorandum.

XXXXXXXXXXXXXXXXXX,  
Correction Officer

\_\_\_\_\_  
Date

Attach: Employee's Manual, Section 7.1  
Directive #4091, "Log Books"

cc: personal history folder

STATE OF NEW YORK—DEPARTMENT OF CORRECTIONAL SERVICES

Interdepartmental Communication

**TO:** Correction Officer  
**FROM:**  
**SUBJECT:** Formal Counseling Memorandum  
**DATE:** 3/08/01

---

This memorandum will serve to confirm and reinforce the counseling session I held with you on today's date in the Conference room with only you and I present.

I explained to you that this counseling session was not disciplinary in nature, but it was a tool to provide you with significant feedback regarding your on-the-job performance and intended to assist you in the proper discharge of your duties.

This counseling session stems from my observation that you were not following the direction I had given you almost a year ago regarding logbook entries. During a previous conversation with you, I had directed you to make the required entries directly into the logbook, not onto a piece of scrap paper and then into the block logbook. While on rounds in SHU on 1/31/01, I again observed you writing notes onto a piece of note paper to be transcribed into your logbook at a later time.

I ordered that you submit a memorandum to me detailing your actions, including as to why you failed to follow my direction regarding the logbook entries.

Your first memo, date 1/31/01, (copy attached), did not address my concerns and I again had to order you to submit a memorandum that explained your actions. Your second memorandum, dated 2/3/01, better addresses my concerns, however, it is not complete.

As I explained to you during the counseling session, this type of conduct violates numerous standards of "The State of New York Department of Correctional Services Employees' Manual," as well as Departmental Directive #4091, "Log Books," and other facility policies.

I then issued you a copy of former Deputy Superintendent XXXXXXXX's memo, dated XXXXXXXX XX, 1XXX, and entitled, "Facility Log Books." A copy is attached. I then read the memo to you.

I also issued you a copy of Departmental Directive #4091; "Log Books," and I also read that to you. A copy of that Directive is attached as well.

I then read to you from "The State of New York Department of Correctional Services Employees' Manual" the following sections, emphasizing the bold portions:

- 2.5 Compliance with orders. **A lawful order given by a superior to a subordinate shall be executed promptly and properly by the subordinate.** Thereafter, the subordinate may appeal the order through channels or in accordance with established grievance procedures. In the event an employee receives conflicting orders from one or more persons of equal authority, the last order received shall be executed.
- 6.11 Employees shall recognize that the facility protects society, not only by maintaining inmates in secure custody, but also by preparing as many of them as possible for law abiding living when released. **Every employee shall**

**discharge his duties and comport himself so as to carry out the programs and policies of the Department.**

**7.1 Every employee, while on duty, shall devote all of his time and effort to the performance of his duties.** Each employee shall maintain an attitude and posture of alertness at all times. When supervising inmates, an employee shall not allow his attention to be diverted in any way which interferes with the maintenance of supervision.

I explained to you that you should familiarize yourself with these sections of the Employees' Manual and again explained to you that your actions were inconsistent with the above-mentioned Departmental and Facility Policies, and the employee's manual.

I again explained to you that logbooks are a chronological record of events transpiring during your tour of duty. These events must be logged in as they occur. If, for whatever reason, you became incapacitated, or, your scrap paper was lost, there would be no record of your tour of duty. It would be better to have a "late entry" than no entry at all.

It appeared to me that you were receptive to this counseling, as you indicated that you have not done this since our last conversation.

By my verbal order and this written confirmation, you have been directed to cease and desist from the action that necessitated this counseling. You are further ordered to follow all orders promptly and properly.

Any further occurrences of either of these types of actions could lead to Departmental disciplinary charges being preferred against you.

You are also notified that in accordance with Article 10.6 and Appendix "C" of the agreement negotiated between the State of New York and N.Y.S.C.O.B.P.A., (your union); you have the right to submit a written rebuttal to this memorandum. That written rebuttal will then be included with this memorandum in your personal history folder.

My signature below constitutes a receipt for this memorandum only, and is in no way an admission of guilt, or an agreement with its content.

\_\_\_\_\_  
XXXXXXXXXXXX,  
Correction Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
XXXXXXXXXXXX,  
Correction Sergeant

\_\_\_\_\_  
Date

attach: Directive 4091, dated 3/3/00  
DSS XXXXXXXX memo dated 9/22/99  
CO XXXXXXXX memos, dated 1/31/01 and 2/3/01

cc: personnel folder