



**New York State Correctional Officers
& Police Benevolent Association, Inc.**

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Sergeants Representative

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Steward Training for Sergeant Issues

Incidental Time off - When dealing with sergeant incidental time it is important to keep in step with the Oneida decision where applicable. The Oneida decision was based on a practice of guaranteeing an incidental day, every day, without exception. The reason for this was due to a long standing practice. When the facility tried to impose a Labor/ Management (L/M) agreement to stop the practice, or limit the availability of an incidental day, we were successful in stopping their attempts.

If your facility currently has a practice of allowing for guaranteed incidental time off (a minimum of one per day) and the administration attempts to change that practice to negatively effect the time off, you would file a grievance identifying the current practice and a violation of Article 14.1(d).

In cases where a L/M agreement is in place, no matter the duration of the agreement, and the facility looks to change the agreement to reduce the incidental or vacation time, a grievance should be filed under Articles 14 and 27. I have enclosed a form grievance for this situation for your convenience. The focus of this type of grievance is strictly "unreasonable denial" and not of past practice. We have moved away from Art. 25 violations due to decisions out of Lyon Mountain and Washington that no longer leave Art. 25 an option.

I recommend that you do not enter into any new agreements reducing your availability of block vacation or incidental time off. L/M discussions are welcomed, but any concessions on incidental time off are discouraged. If they want to reduce, then file a grievance. This in no way affects your agreements through Staffing regarding Correction Officer vacation and incidental time off. Our argument with the state is that the LDE (leave days earned) formula should not be imposed on sergeants because of their small numbers. To try to implement that formula based on days earned leaves very little or no incidental time off for sergeants in many facilities.

Staffing (AWC) - I have had some discussions with stewards regarding practices at many facilities regarding staffing, overtime, post closings, etc. Many of the decisions by the AWC are based on orders that have been given to the sergeant from a higher ranking supervisor. If there comes a time at your facility where a sergeant is doing something contrary to local policy or the CBA, and that direction was given to him/her by a supervisor, direct your concerns to the supervisor where the orders originated. The AWC must follow the order he/she is given. If a violation has occurred because of that order, grieve the decision from the administrator (W/C, Capt., Dep, etc.). This will protect the sergeant from negative consequences and protect the member and/or member's rights that have been violated.

Post Closings- There have been some sergeant post closings or combining of duties at some locations. Currently, we do not have a backfilling agreement that covers sergeants. The agreement in place specifically covers correction officers. It is my intention to raise this issue at up-coming statewide L/M meetings, however for now the only success that we have had is to have discussions at the local level to alleviate this problem. Continue to have a dialogue with your facilities when this occurs. Follow up with a grievance if the facility continues the practice unabated. All grievances in this area should be filed under Arts. 22 & 27.

Probationary Terminations – When someone is terminated during their probationary evaluation period (losing their stripes), they have the right to a 4.5 exit interview. If this occurs at your facility, please notify me immediately and I will start the process to set up the interview. This is not a formal appeal process but rather an opportunity to tell your side of the story as to why you believe the demotion was unjust. The only other recourse other than this interview, which is rarely successful, is to show that the Department did not follow its own directive (2219):

Section 63.1 of the Civil Service Law requires that original appointment to positions in the competitive class and interdepartmental promotions shall be for a probationary term. However, the Civil Service Commission may exercise jurisdiction in matters alleging procedural defects in the administration of the probationary process.

In other words, if the Department fails to follow its evaluation policy and evidence can be shown in that regard, Civil Service can grant a re-instatement with a new evaluation period.



GRIEVANCE FORM

(Please Type or Print)

Revised: March 1, 2003

LOCAL Grievance Number: _____

Facility (or Agency): _____

Aggrieved Employee: _____

LOCAL Union Rep: _____

Phone Number/ext. _____

DO NOT WRITE IN THIS BOX
NYSOPBA Grievance Number: **CON**

Date Submitted: _____

Date of Occurrence: _____

Contract Article Violation(s): Article 14, Article 27

STATEMENT OF FACTS: On the above date, my request for leave was denied. This denial is unreasonable and violates article 14, because there are resources available to the facility to cover my leave.

Further, I am permitted to accumulate vacation leave under Article 14. By denying my request for time off, the facility is interfering with my ability to accumulate and utilize vacation and/or personal leave in violation of Article 14.

REMEDY SOUGHT: Cease and desist the practice of unreasonably denying leave consistent with Article 14 and its arbitral precedent.

Aggrieved Employee's Signature: _____