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Article 35

Employee Assistance and Counseling

Section 1. Policy Statement

- A. The Administration and the Union jointly recognize that treatable illnesses and disorders occur in the work force as a result of alcohol, drug and dangerous substance abuse. The parties further recognize that whenever such conditions adversely impact on an employee's work performance, attendance, reliability or conduct, the employee should constructively address these problems through participation in counseling and treatment where appropriate.

- B. Therefore, the Employer and the Union will work together to encourage troubled employees whose work performance is adversely affected to pursue counseling help or treatment.

Section 2. Referrals/Community Resources

The Administration agrees to assist employees in securing counseling services when work performance, attendance, reliability or conduct are adversely affected

24 as a result of alcohol, drug or dangerous substance abuse. This may be
25 accomplished through providing information and encouragement to the employee
26 to use any of the following types of services where available:

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28 A. Referrals to available counseling services in the local community.

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30 B. Counseling services provided by the Administration either onsite or on an as-
31 needed basis.

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33 C. Counseling services provided through joint efforts with other Federal
34 Agencies.

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37 Section 3. Voluntary Participation and Employee Responsibility

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39 Although the existence and functions of counseling and referral programs will be
40 publicized to employees, no employee will be required to participate or be
41 penalized for merely declining referral to a counseling service. Should any
42 counseling appointment or treatment require an absence from duty, the
43 employee must get sick leave approval or make other appropriate arrangements
44 with his/her supervisor.

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46 Section 4. Confidentiality/Relationship to Disciplinary and Adverse Action

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48 A. The parties recognize that all confidential information and records concerning
49 employee counseling and treatment will be maintained in accordance with
50 applicable laws, rules and regulations.

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52 B. Without an employee's specific written consent, the supervisor may not obtain
53 information about the substance of the employee's involvement with a
54 counseling program. Information obtained with the employee's authorization
55 from such counseling programs may not serve as the basis for disciplinary or
56 adverse actions unless required to enforce the law or terms of last chance
57 agreements. Disciplinary actions should be based on job behavior or
58 performance problems, not progress in a counseling program. In evaluating
59 an employee's work performance and job-related conduct, the supervisor may
60 take into account whether an employee referred to counseling is cooperating
61 with a recommended plan of counseling.

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63 C. If as a result of a proposed disciplinary or adverse action, an employee
64 notified management for the first time that he/she has a substance abuse
65 problem that significantly contributed to the misconduct and is seeking the
66 services of EAP, management will normally put the proposed action in
67 abeyance for a period of not more than 1 year while the employee undergoes
68 treatment under terms and conditions agreed to. This provision only applies

69 in the first instance of substance abuse and does not apply if severe,
70 egregious or criminal misconduct is involved.

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72 If at the end of such period, there are no further instances of related
73 misconduct the proposal held in abeyance will be dropped. Violation of any
74 agreed to conditions, or continued misconduct as referenced in the proposed
75 disciplinary or adverse action during the abeyance period will result in
76 activation of the proposed disciplinary or adverse action process.

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78 D. Requests for counseling or referral assistance will not be a factor in job
79 security or promotional opportunities.

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82 Section 5. Access to Services

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84 Employees are on official duty when they meet with the EAP provided they
85 inform their supervisors of their appointment with the EAP counselor. These
86 meetings with EAP counselors may entail up to 6 sessions with the actual
87 number being based on sound clinical judgment as determined by the counselor.
88 Employees who do not want their supervisors to know of their attendance must
89 arrange appointments outside duty hours or request leave approval. Employees
90 who are referred to community services for treatment will request leave in
91 accordance with Article 31.