

MEMORANDUM OF SETTLEMENT

Between

The Ontario Public Service Employees Union
(The Union)

AND

The Crown in Right of Ontario
As Represented by

the Ministry of Community Safety and Correctional Services (MCSCS)

(The Employer)

WHEREAS the union filed a grievance dated September 22, 2011 (OPSEU# 2011-0999-0050) alleging that the employer had violated specifically, but not exclusively, article 2,3, 21 and appendix COR 10 of the collective agreement in regard to the suspension of fixed term employees without pay pending investigation; and

WHEREAS the parties are desirous of resolving the matters giving rise to the grievance;

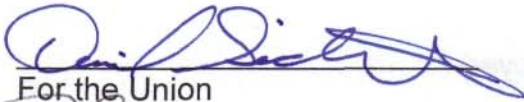
THEREFORE the parties agree to the following terms on a without precedent and without prejudice basis:

1. The employer will issue a communication to Institutional Services, MCSCS regarding suspensions pending an investigation. The communication ([attached as Appendix A](#)) will highlight the process for suspensions pending investigation, the requirement for management to exercise discretion when determining whether to suspend pending an investigation, and factors to consider when determining whether to suspend an employee with or without pay.
2. The employer will issue the communication to Institutional Services, MCSCS within 10 business days of the signing of this settlement.
3. This settlement is not an admission or concession of liability or wrongdoing on the part of any of the parties.
4. This settlement does not infringe on the ability of the employer to exercise its rights under the collective agreement, legislation or otherwise. Nor does

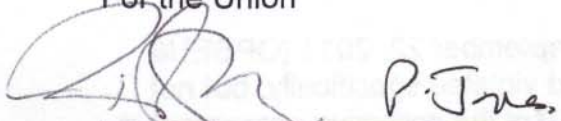
this settlement preclude the union from grieving any action taken by the employer in accordance with those rights.

5. This settlement constitutes the complete agreement between the parties in relation to the above-noted grievance and all related concerns. The parties agree and acknowledge that they have not made any verbal or other agreements beyond what is contained in this settlement.
6. The above-noted grievance is hereby fully and finally resolved.

Dated in Toronto this day 10 of January, 2012.


For the Union




For the Ministry

For the Ministry

Memorandum

From: Steve Small, ADM, Adult Institutions

To: All Regional Directors, Deputy Regional Directors, and Superintendents

Re: Important Message regarding Suspensions

When an investigation is initiated Superintendents should consider whether the employee under investigation can remain in the workplace in some capacity, including whether the employee can be assigned other work within the workplace. Where it is determined that an employee cannot remain in the workplace pending an investigation, he or she will be suspended under section 36 (2) of the *Public Service of Ontario Act (PSOA)*. A suspension under s. 36 (2) may be with or without pay for both regular and fixed-term employees, as set out in section 36 (3). Where it is determined that a suspension of a fixed-term employee will be with pay, their weekly pay will be calculated in accordance with Appendix COR 10 of the collective agreement. In the event that a regular employee is suspended with pay, they will continue to receive their regular weekly wage.

The following are some of the factors to be considered when deciding whether to suspend an employee with or without pay:

- 1) the anticipated length of time it may take to conclude the investigation;
and,
- 2) the seriousness of the allegations.

Each decision to suspend pending an investigation and whether it will be paid or unpaid will be based on the specific facts of each case. In the event you are considering suspending an employee without pay pending an investigation you must consult with the Centre for Employee Relations.

When an employee has been suspended pending an investigation the Superintendent will contact the OPSEU Local President and the Regional Director will contact the OPSEU MERC co-chair to notify them of the suspension.



Please contact your Employee Relations Advisor if you have any questions or concerns about suspensions pending investigation.

Steve Small

