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10.1 GENERAL PROVISIONS

The purpose of the grievance procedure is to permit eligible employees to provide a standard process for speedy investigation and resolution of employee complaints that are permitted under these policies and procedures. A grievance is an employee's statement that a city supervisor, Department Head or the Mayor is improperly or inappropriately applying or failing to apply the personnel rules, personnel regulations, and/or personnel procedures of the City of Madison.

These procedures may also be used for appealing of 1) disciplinary action involving a written warning or suspension without pay *for six (6) workdays or 48 working hours or less.*

The City grievance procedure is not intended for and will not be used for the following purposes:

- a) Matters challenging the content of classification, pay, compensation, leave, and related personnel rules and regulations;
- b) To resolve personal differences between/among employees;
- c) To appeal City-wide pay reductions which are part of a general plan to reduce salaries and wages when such reductions are prorated to all employees;
- d) To appeal non-selection for a position when properly established staffing procedures have been followed;
- e) To appeal the content of approved and published City ordinances or other legal actions;
- f) To appeal a disciplinary action involving suspension without pay for more than six (6) workdays or dismissal;
- g) To contest any action that does not pertain directly and personally to the employee submitting the grievance; or
- h) Matters related to contracted services or providers. These shall be addressed with management, the Mayor or the provider.

Eligibility. All employees, except probationary status employees, temporary employees, appointed officials, and appointed aide positions serving at the pleasure of Mayor or Council shall have the right to file a grievance.

Rights. No employee shall be penalized solely for exercising their rights under the grievance procedures, including their rights to submit a grievance or to serve as a witness for another employee's grievance.

While grievance and hearing procedures do not follow court discovery procedures, the Human Resources Department may assist employees in obtaining copies of their personnel file or any other known public record, if requested in a timely manner.

Timeliness. A written grievance filed to appeal a suspension without pay of *six (6)*

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workdays or less and a written grievance to appeal an Administrative Separation must be submitted to the Mayor within three (3) business days of the employee's receipt of the notice of suspension or separation. Failure to do so may be deemed to be a waiver of the grievance process and the action may become effective immediately.

A grievance for any other reason must be filed according to the procedures defined in this policy within ten (10) business days of the date the employee knows, or should have known, of an alleged violation of a Madison personnel rule, regulation or procedure.

Withdrawal.

An employee may withdraw his/her grievance at any step in the process.

**Management
Responsibilities.**

Whenever practicable, Supervisory or Management personnel will make reasonable effort to achieve rapid, satisfactory and productive resolution of problems, complaints and grievances at the lowest possible level, when possible.

10.2 GENERAL PROCEDURE

The Grievance Procedure steps are outlined below. Grievances to appeal a suspension without pay of six (6) workdays or 48 hours or less will begin the Grievance procedure at Step 1 and follow Steps 2 and 3 as requested by the employee. Suspensions without pay for six (6) or more workdays or more than 48 hours are granted with the additional option of requesting a hearing, as outlined in 10.3 and shall be allowed after exhausting all options outlined in Steps 1-3. Department Heads or any other employee who reports directly to the Mayor shall start at Step 3 below.

Step 1.**Supervisor**

Within ten (10) business days after the employee knows, or should have known, of an alleged violation or misapplication of a Madison personnel rule, regulation or procedure, an employee shall discuss his/her grievance with his/her immediate supervisor. The supervisor is required to provide the employee an answer within five (5) business days of this initial meeting. No written record of the grievance action is required at this level. *Should the supervisor be out of the office, the next level supervisor should respond within the required time. If the next level supervisor is the Department Head, employees may move directly to Step 3, if requested.*

Step 2.**Department Head**

Within five (5) business days from the receipt of the supervisor's decision or non-response, the employee shall have the right to appeal the decision in writing to their Department Head. (For Department Head employees, the Mayor shall serve as their Department Head for purposes of Step 2.) The Department Head shall furnish the employee an answer within ten (10) business days of receipt of this appeal. The Department Head shall furnish the Mayor and City Human Resources Director with a written statement containing the employee's complaint, pertinent facts and the decision given to the employee.

Step 3.**Mayor**

A) Within five (5) business days of receipt of the Department Head's decision or non-response, the employee shall have the right to elevate the grievance to the Mayor.

If the grievance is first entered into the grievance procedures at this step (for suspension of *six (6) days or less* or for Administrative Separation), the employee has three (3) business days from the employee's receipt of the notice of suspension or separation to appeal to the Mayor. The Mayor's Office shall forward a copy to the Director of Human Resources.

- B) The employee's grievance to the Mayor must be in writing, and must contain the following:
- 1) a statement of the employee's grievance, including any alleged violation or misapplication of a Madison personnel rule, regulation or procedure, and the date, description of such misapplication or violation, including evidence information the employee may have;
 - 2) the specific remedy which the employee is seeking;
 - 3) previous supervisory decisions, if any;
 - 4) The names of any possible witnesses the Mayor may question, at his/her discretion, with a brief statement as to the expected substance of each witness's testimony.

Failure to provide the above information may result in denial of the grievance by the Mayor.

- C) The Mayor will furnish the employee with his/her decision in writing within (15) business days of the Mayor's receipt of the employee's grievance. The Mayor may sustain, amend or overrule the Department Head's decision. A copy of the Mayor's decision will be sent to the Director of Human Resources and the Department Head.

Step 4.
Appeal to
City Council

Only employees with a discipline action greater than a suspension of six (6) workdays or 48 working hours or more may utilize Step 4. Within five (5) business days of the employee's receipt of the Mayor's decision, the employee may appeal such a decision to the City Council. The employee must file written notice to the Director of Human Resources indicating his/her decision to appeal to the City Council. The City Council shall gather pertinent documents and hear the employee's grievance.

Council will either affirm or not affirm the Mayor's decision. The decision of the Council shall be final.

10.3 CITY COUNCIL HEARING PROCESS

Presiding Officer. The City Council President or the President Pro Tem of the City Council shall preside over the hearings before the Council.

Purpose. The City Council's purpose is only to determine if the Mayor's decision was supported by a preponderance of the evidence.

The Council shall be limited in its review of the evidence to a determination of whether there was a preponderance of the evidence in the record to support the decision of the Mayor with respect to the grievance. A presumption of correctness shall be afforded any findings of fact made by the Department Head or the Mayor where the Council finds a preponderance of the evidence in the record to support such factual determinations. Council will either affirm or not affirm the Mayor's decision.

Conflict of Interest. No Council member shall participate in any grievance in which he/she has a personal interest or as to which he/she has a conflict of interest.

Hearing Date. The Presiding Officer shall set the hearing date and time. Under extreme circumstances, the Presiding Officer may grant the employee a "continuance" or a different date for the hearing. However, the employee must submit a written request in advance of the hearing to the Human Resources Director.

Representation. The employee may be represented by a licensed attorney or another individual, at the employee's own expense, who may participate in the hearing to whatever extent the employee desires. If the employee intends to have a representative, then he/she shall provide written notice of such, including the name of the attorney or representative, to the Human Resources Director at least three (3) business days prior to the hearing date.

The Department Head or other designated official may be assisted by the City Attorney (or outside legal counsel) who may participate in the hearing to whatever extent the Department Head desires. However, the Department Head may be present at all hearings.

Preparation.

Prior to the hearing Council members will be encouraged to review: (1) Section 10 of the Personnel Policies and Procedures; (2) other applicable policies; and (3) the nature and scope of the employee's grievance; (4) responses to the grievance (if any). The Human Resources Director will provide all documents for reference to Council members.

City Council Decisions.

If Council closes a grievance hearing to the public, the Council must vote to meet in executive session to discuss the general reputation and/or character of individuals. No vote of the Council, however, may be taken in executive session. After completion of the hearing, a majority of the City Council, after returning to an open meeting, shall either affirm or not affirm the Mayor's decision.

Order of Presentation.

The hearing shall be conducted in an orderly manner to ascertain relevant facts within a reasonable time. The Presiding Officer may change the order of presentation, whenever deemed necessary or appropriate. The Presiding Officer may exclude any information that is determined to be irrelevant to the specific complaint in the grievance or inconsistent with the Grievance Procedures policies. The order of presentation may be as follows:

1. Opening statement of the employee, briefly summarizing his/her complaint.
2. Opening statement of the Department Head, briefly explaining his/her response to complaint.
3. Presentation of evidence by the employee, including the presentation of documents and witnesses one at a time, with no other witnesses present in the hearing, who have information to share specific to the employee's specific grievance. The witnesses may be cross-examined by the Department Head and additional questions may be asked by Council members. Each witness may be excused after his or her testimony.

4. Presentation of evidence by the Department Head, including the presentation of documents and witnesses one at a time, with no other witnesses in the hearing, who have information to share specific to the employee's specific grievance. The witnesses may be cross-examined by the employee and additional questions may be asked by Council members. Each witness may be excused after his or her testimony.
5. Presentation of any rebuttal evidence and testimony from the employee, with cross-examination by the Department Head. Rebuttal evidence and testimony may address only issues that were raised in the presentation of evidence and may not be used to raise any new issues before the Council.
6. Any additional questions for clarification by Council members.
7. Closing remarks by the employee.
8. Closing remarks by the Department Head.