

 <b>City of WHITEWATER</b>		<b>Grievance Process</b>			
Owner:	HR Manager	Approving Position:	Common Council	Pages:	4
Issue Date:	12-22-2011	Revision Date:		Review Date:	
Special Instructions:	Section 66.0509, Wis. Stats. This version expands the policy and guidelines sections, adds a step for complaints against the City Manager and a minor re-word for complaints against department heads.				

#### I. Policy

This policy is intended to comply with Section 66.0509, Wis. Stats., and provides a grievance procedure addressing issues concerning workplace safety, discipline and termination. The policy provides an employee with the individual opportunity to address concerns regarding corrective action, termination or workplace safety matters, to have those matters reviewed by an Impartial Hearing Officer and to appeal to the Common Council of the City of Whitewater

This policy applies to all employees covered under Section 66.0509, Wis. Stats., other than police and fire employees subject to Section 62.13(5), Wis. Stats.

#### II. Guidelines

The City expects employees and management to exercise reasonable efforts to resolve any questions, problems or misunderstandings prior to utilizing this policy. An employee subject to a contractual grievance procedure shall follow the contractual grievance procedure to the extent those procedures cover the matters covered by the Grievance Process. An employee subject to statutory dispute resolution procedures shall be subject to those procedures to the extent those procedures cover the matters covered by the Grievance Process. The City reserves all rights and this Grievance Process does not create a contract of employment or any other legally binding contract. Employees of the City of Whitewater are employed at-will and may resign or be terminated with lawful reason or without reason. The City may terminate the employment relationship at any time with or without reason and without violation of applicable law.

#### III. Procedures

##### A. Grievance Procedure

1. Subject Disciplinary Actions

- a. Any disciplinary action may be subject to appeal by an employee under this grievance procedure except the following:
  - 1) Placing an employee on paid administrative leave pending an internal investigation
  - 2) Counseling, meetings or other pre-disciplinary action
  - 3) Actions taken to address work performance, including use of a performance improvement plan or job targets
  - 4) Demotion, transfer or change in job assignment

2. Subject Terminations

- a. Any form of involuntary separation may be subject to appeal by the former employee except the following:
  - 1) Job abandonment, “no-call, no-show”, or other failure to report to work
  - 2) The inability to perform job duties for any reason.

3. Workplace Safety

Workplace safety is defined as conditions of employment affecting an employee’s physical health or safety, the safe operation of workplace equipment and tools, safety of the physical work environment, personal protective equipment, workplace violence, and training related to same.

4. Supervisor Notice

- a. An employee should first discuss complaints or questions with their immediate supervisor.
- b. Every reasonable effort should be made by supervisors and employees to resolve any questions, problems or misunderstandings that have arisen before filing a grievance.

5. Written Grievance Requirements

- a. An employee wishing to file a grievance under this policy must provide a detailed description of the grievance including:
  - 1) The name and position of the filing employee
  - 2) A description of the issue
  - 3) A statement of the relief sought
  - 4) A clear explanation of the facts supporting the grievance
  - 5) The date(s) when the event(s) giving rise to the grievance took place
  - 6) A statement of the policy, procedure or rule that is being challenged

- 7) The steps taken by the employee to review the matter, either orally or in writing, with the employee's supervisor
- 8) The employee's signature and the date.

6. Grievance Process

a. Step One

- 1) The employee must prepare and file a written grievance with the Department Director within five (5) business days from the date the employee becomes aware of the event(s).
- 2) Together with the HR Department, the Department Director or their designee will investigate the facts giving rise to the grievance.
- 3) The Department Director will inform the employee of their decision in writing, if possible within ten (10) business days of receipt of the grievance.
- 4) In the event the grievance involves the Department Director, the employee may initially file the grievance with any employee of the HR Department, who shall conduct the investigation with the assistance of the City Manager.
- 5) In the event the grievance or complaint involves the City Manager, the employee may initially file the grievance with the HR Manager or City Attorney, who shall coordinate the investigation with an impartial hearing officer. The impartial hearing officer in this case would be selected by the HR Manager or City Attorney.

b. Step Two

- 1) If the grievance is not settled at Step One, the employee may appeal the grievance to the City Manager within five (5) business days of the receipt of the decision of the Department Director at Step One.
- 2) The City Manager or their designee will review the matter and inform the employee of their decision, if possible within ten (10) business days of receipt of the grievance.

c. Step Three

- 1) If the grievance is not settled at Step Two, the employee may request in writing, within five (5) business days following receipt of the City Manager's decision, a review by an impartial hearing officer.
- 2) The City Manager, shall select the impartial hearing officer from a list of candidates approved by the Common Council.
- 3) The hearing officer shall not be a City employee.
- 4) In all cases, the grievant shall have the burden of proof to support the grievance.

- 5) The impartial hearing officer will determine whether the City acted in an arbitrary and capricious manner.
- 6) This process does not involve a hearing before a court of law; thus, the rules of evidence will not be followed.
- 7) Depending on the issue involved, the impartial hearing officer will determine whether a hearing is necessary, or whether the case may be decided based on a submission of written documents.
- 8) The impartial hearing officer shall prepare a written decision.

d. Step Four

- 1) If the grievance is not resolved after Step Three, the employee or the City Manager shall request within five (5) business days of receipt of the written decision from the hearing officer a written review by the Governing Body.
- 2) For Library employees, the appeal shall be filed with the Library Board.
- 3) For all other employees, the appeal shall be filed with the Common Council for review at the Council's next regularly scheduled meeting.
- 4) The Council shall not take testimony or evidence; it may only determine whether the hearing officer reached an arbitrary or incorrect result based on a review of the record before the hearing officer.
- 5) The Council or its designee will inform the employee of its findings and decision in writing within ten (10) business days of the meeting.
- 6) The Common Council shall decide the matter by majority vote and this decision shall be final and binding.

7. Time Limits

- a. An employee may not file a grievance outside of the time limits set forth in the grievance process.
- b. If the employee fails to meet the deadlines set forth above, the grievance will be considered resolved.
- c. If it is impossible to comply with the deadlines due to meeting notice requirements or meeting preparation the grievance will be reviewed at the next possible meeting date.
- d. An employee must process their grievance outside of normal work hours, unless the employee elects to use accrued paid time (vacation, comp time etc.) in order to be paid for time spent processing their grievance through the various steps of the grievance procedure.

IV. Reporting

V. Job Aids