

## Discipline and Grievance Procedure

**Discipline.** Discipline may result when an employee's actions do not conform with generally accepted standards of good behavior, when an employee violates a policy or rule, when an employee's performance is not acceptable, or when the employee's conduct is detrimental to the interests of the City. Disciplinary action may call for any of four steps – verbal warning, written warning, suspension (with or without pay) or termination of employment – depending on the problem and the number of occurrences. There may be circumstances when one or more steps are bypassed. Certain types of employee problems are serious enough to justify either a suspension or termination of employment without going through progressive discipline steps. The City reserves the right, in its sole discretion, to impose disciplinary action as may be appropriate to the particular circumstances.

**Grievance Procedure.** 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. 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. An employee may appeal any level of discipline under this grievance procedure. For purposes of this policy, the following definitions apply:

1. "Employee discipline" includes all levels of progressive discipline, but shall not include the following items:
  - Placing an employee on paid administrative leave pending an internal investigation;
  - Counseling's, meetings or other pre-disciplinary action;
  - Actions taken to address work performance, including use of a performance improvement plan or job targets;
  - Demotion, transfer or change in job assignment; or
  - Other personnel actions taken by the employer that are not a form of progressive discipline.
  
2. "Employee termination" shall include action taken by the employer to terminate an individual's employment for misconduct or performance reasons, but shall not include the following personnel actions:
  - Voluntary quit;
  - Layoff or failure to be recalled from layoff at the expiration of the recall period;
  - Retirement;
  - Job abandonment, 'no-call, no-show', or other failure to report to work; or
  - Termination of employment due to medical condition, lack of qualification or license, or other inability to perform job duties.

3. "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.

Any written grievance filed under this policy must contain the following information:

- The name and position of the employee filing it,
- A statement of the issue involved,
- A statement of the relief sought,
- A detailed explanation of the facts supporting the grievance;
- The date(s) the event(s) giving rise to the grievance took place;
- The identity of the policy, procedure or rule that is being challenged;
- The steps the employee has taken to review the matter, either orally or in writing, with the employee's supervisor; and
- The employee's signature and the date.

### **Steps of the Grievance Procedure**

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

1. Step 1 – Written Grievance Filed with the Department Head. The employee must prepare and file a written grievance with the Department head within five (5) business days of when the employee knows, or should have known, of the events giving rise to the grievance. The Department Head or his/her designee will investigate the facts giving rise to the grievance and inform the employee of his/her decision, if possible within ten (10) business days of receipt of the grievance. In the event the grievance involves the Department head, the employee may initially file the grievance with the City Administrator, who shall conduct the Step 1 investigation.
2. Step 2 – Review by City Administrator. If the grievance is not settled at Step 1, the employee may appeal the grievance to the City Administrator within (5) business days of the receipt of the decision of the department head at Step 1. The City Administrator or his/her designee will review the matter and inform the employee of his/her decision, if possible within ten (10) business days of receipt of the grievance.
3. Step 3 – Impartial Hearing Officer. If the grievance is not settled at Step 2, the employee may request in writing, within five (5) business days following receipt of the City Administrator's decision, a request for written review by an impartial hearing officer. The City shall select the impartial hearing officer. The hearing officer shall not be a City employee. In all cases, the grievant shall have the

burden of proof to support the grievance. The impartial hearing officer will determine whether the City acted in an arbitrary and capricious manner. This process does not involve a hearing before a court of law; thus, the rules of evidence will not be followed. 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. The impartial hearing officer shall prepare a written decision.

4. Step 4 –Review by the Governing Body. If the grievance is not resolved after Step 3, the employee or the City Administrator shall request within five (5) business days of receipt of the written decision from the hearing officer a written review by the Governing Body. For Library employees, the appeal shall be filed with the Library Board. For all other employee, the appeal shall be filed with the City Council. The City 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. The matter will be scheduled for the City Council's next regular meeting. The City Council will inform the employee of its findings and decision in writing within ten (10) business days of the City Council meeting. The City Council shall decide the matter by majority vote and this decision shall be final and binding.

An employee may not file a grievance outside of the time limits set forth above. If the employee fails to meet the deadlines set forth above, the grievance will be considered resolved. 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. An employee will not be compensated for time spent in processing his/her grievance through the various steps of the grievance procedure.