

## **POLICY 207 GRIEVANCE PROCEDURE**

**1. Purpose.** This procedure provides an employee with the individual opportunity to address concerns regarding discipline, termination or workplace safety matters, to have those matters reviewed by an impartial hearing officer and to appeal to the county board, where appropriate, as required by Wis. Stat. 66.0509. The county expects employees and management to exercise reasonable efforts to resolve any questions, problems, or misunderstandings prior to utilizing the grievance procedure. If an employee is subject to a contractual grievance procedure, the contractual grievance procedure must be followed as applicable. This procedure does not replace or supersede any statutory provision which may be applicable to an employee's employment with the county. This grievance procedure does not create a legally binding contract or a contract of employment.

**2. Definitions.**

- 2.1 Discipline.** An employment action that results in disciplinary suspension or disciplinary demotion/reduction in rank. Discipline does not include any written or verbal notices, warnings, or reminders; verbal discipline will be documented, but not subject to the grievance procedure. The purpose of written and verbal notices, warnings, or reminders is to alert the employee that failure to correct the behavior may result in disciplinary suspension, termination, or disciplinary demotion/reduction in rank.
- 2.2 Termination.** Separation from employment by the employer for disciplinary or performance reasons. Termination does not include layoff, furlough or reduction in workforce, reduction in hours, job transfer or reassignment, or retirement.
- 2.3 Employee.** For purposes of the procedure for grievances concerning employee terminations and employee discipline, includes all regular full-time and part-time employees. The term employee excludes elected officials; individuals hired on a temporary, casual, project or seasonal basis; independent contractors; employees within their introductory period; and any employee, official or officer that serves at the pleasure of an appointing authority as provided by Wisconsin Statutes.
- 2.4 Workplace Safety.** Any conditions of employment related to the physical health and safety of employees, including the safety of the physical work environment, the safe operation of workplace equipment and tools, provision of personal protective equipment, and accident risks. Workplace Safety does not include conditions of employment unrelated to physical health and safety matters, including, but not limited to, hours, overtime, and work schedules.

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2.5 Employee. For purposes of the procedure for grievances concerning workplace safety, will include all regular full-time and part-time employee, elected officials; and, individuals hired on a, temporary, casual, project, or seasonal basis. The term employee excludes independent contractors.

3. General Provisions.

3.1 Role and Appointment of Impartial Hearing Officer.

- 3.1.1 For purposes of this policy, the role of the impartial hearing officer will be to define the issues, identifying areas of agreement between the parties and identifying the issues in dispute, and to hear the parties' respective arguments.
- 3.1.2 The hearing officer may require the parties to submit documents and witness lists in advance of the hearing in order to expedite the hearing.
- 3.1.3 The hearing officer will have the authority to administer oaths, issue subpoenas at the request of either party, and decide if a transcript is necessary.
- 3.1.4 The hearing officer may apply relaxed standards for the admission of evidence and may request oral or written arguments and replies.
- 3.1.5 The impartial hearing officer will be selected by the county administrator based upon the nature of the matter in dispute.

3.2 Costs.

- 3.2.1 Each party will bear its own costs for witnesses and all other out-of-pocket expenses, including possible attorney fees, in investigating, preparing, presenting, or defending a grievance.
- 3.2.2 The fees of the impartial hearing officer will be paid by the County.

### 3.3 Time Limits.

3.3.1 The term days as used in this provision means calendar days, excluding observed holidays as set forth in Policy 403, Holidays and Leaves Around Holidays. The employer and grievant may mutually agree to waive time limits, in writing. If the last day on which a grievance is to be filed or a decision is to be appealed is a Saturday, Sunday or holiday as set forth in Policy 403, Holidays and Leaves Around Holidays, the time limit is the next day which is not a Saturday, Sunday or holiday.

3.3.2 A grievance or decision or appeal is considered timely if received by the employer during normal business hours or if postmarked by 12:00 midnight on the due date.

3.3.3 The employer and grievant may mutually agree, in writing, to waive any step to facilitate or expedite resolution of the grievance.

3.3.4 If the grievance is not answered within the time limits, the grievant may proceed to the next available step within 7 days.

3.3.5 Any issues involving the timeliness of a grievance will be resolved by the county administrator.

3.4 Scheduling. Grievance meetings and hearings will typically be held during the grievant off-duty hours. Time spent in grievance meetings and hearing will not be considered as compensable work time.

3.5 Representation. The grievant will have the right to representation during the grievance procedure at the grievant expense.

## 4. Procedure for Grievances Concerning Employee Terminations and Employee Discipline.

4.1 Step 1. An earnest effort will be made to settle the matter informally between the aggrieved employee and the employee's immediate supervisor. If the grievance is not resolved informally, it will be reduced to writing by the employee who will submit it to the employee's department head, with a copy to the director.

4.1.1 The written grievance will give a detailed statement concerning the subject of the grievance, the facts upon which the grievance is based, and indicate the specific relief being sought.

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- 4.1.2 Time Limit. If the employee does not submit a written grievance within 14 days after the facts upon which the grievance is based first became known, or should have been known to the employee, the grievance will be deemed waived. The department head will reply in writing to the employee within 14 days after receipt of the written grievance.
- 4.2 Step 2. If the grievance is not settled in Step 1, and the employee wishes to appeal the decision, the employee will submit the written grievance to the county administrator to request a hearing before an impartial hearing officer.
  - 4.2.1 Time Limit. If the employee does not submit a written grievance to the county administrator requesting a hearing before an impartial hearing officer within 14 days after receipt of the department head's decision, the grievance will be deemed waived. If timely requested, the hearing will normally be scheduled within 30 days of receipt of the request for hearing.
  - 4.2.2 The hearing officer will determine whether the departments head's decision was arbitrary, capricious or not supported by the facts presented. At the conclusion of the hearing, the hearing officer will render a written decision indicating the reasons for one of four decisions. 1) Sustaining the discipline/termination, 2) Modifying the discipline/termination, 3) Denying the discipline/ termination, or 4) Recommending additional investigation prior to final determination. In cases where the hearing officer recommends additional investigation, at the conclusion of the additional investigation, a second, follow-up hearing will be scheduled. The hearing officer will render a written decision to the employer and employee within 10 calendar days from the date of the hearing.
- 4.3 Step 3. The employer or employee may appeal the decision of the hearing officer to the county board. The decision of the governing body will be final and binding upon the parties.

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- 4.3.1 Time Limit. The employee or employer may request a review by the county board by filing a request with the county administrator within 14 days of receipt of the written decision of the hearing officer. The request must set forth in detail the reasons for the appeal. The non-appealing party will have 14 days to submit a reply to the detailed request. Once the request for review and reply are received, the review will be scheduled at the board's next regularly scheduled meeting. If not timely submitted by the grievant, the grievance can no longer be addressed in the grievance procedure.
- 4.3.2 Level of Review. The county board will review only the written decision of the hearing officer, the reasons for the appeal and the reply. The role of the county board, in reviewing the decision of the impartial hearing officer, is to determine whether the impartial hearing officer's decision was arbitrary, capricious, or not supported by the facts presented to the hearing officer. The county board may either uphold, modify, or reverse the decision of the impartial hearing officer.

5. Procedure for Grievances Concerning Employee Workplace Safety.

- 5.1 Step 1. Any employee who personally identifies, or is given information about, a workplace safety issue or incident must notify the employees department head of the issue or incident as soon as reasonably practicable. All safety issues, no matter how insignificant the situation may appear to be, must be reported.
  - 5.1.1 Time Limit. Any workplace safety incident or issue must be reported by an employee within 24 hours after the incident or issue was raised in order to be addressed as part of the grievance procedure.
  - 5.1.2 A written report of the incident or issue, outlining the events that transpired and proposed resolution, if any, will be signed by all concerned parties and submitted to the director within 7 days of the incident or issue for review and consideration by the loss control committee.
- 5.2 Step 2. After receipt of the written report, the loss control committee will conduct additional investigation, if required, and normally issue a final report on its findings and conclusions within 14 days of receipt of the written report. Copies of the loss control committee's final report will be given to the persons who signed the written report, as well as to the director.
- 5.3 Step 3. The employee may appeal the findings and conclusions of the loss control committee and request a hearing before an impartial hearing officer.

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- 5.3.1 Time Limit. If the employee does not submit a written grievance to county administrator requesting a hearing before an impartial hearing officer within 7 days after receipt of the loss control committee's final report, the grievance can no longer be addressed in the grievance procedure. If timely requested, the hearing will normally be scheduled within 14 days of receipt of the request for hearing.
- 5.3.2 At the conclusion of the hearing, the hearing officer will record one of three outcomes and the reasons therefore.
  - 5.3.2.1 Sustaining the conclusions of the loss control committee,
  - 5.3.2.2 Denying the conclusions of the loss control committee and ordering additional or alternative remedial measures, if applicable, or
  - 5.3.2.3 Recommending additional investigation prior to final determination. In cases where the hearing officer recommends additional investigation, at the conclusion of the additional investigation, a second, follow-up hearing will be scheduled. The hearing officer will render a written decision to the employer and employee within 10 calendar days from the date of the hearing.
- 5.4 Step 4. The employer or employee may appeal the decision of the hearing officer to the county board. The decision of the governing body will be final and binding upon the parties.
  - 5.4.1 Time Limit. The employee or employer may request a review by the county board by filing a request with county administrator within 14 days of receipt of the written decision of the hearing officer. The request must set forth in detail the reasons for the appeal. The non-appealing party will have 14 days to submit a reply to the detailed request. Once the request for review and reply are received, the review will be scheduled at the board's next regularly scheduled meeting. If not timely submitted by the grievant, the grievance can no longer be addressed in the grievance procedure.

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5.4.2 Level of Review. The county board will review only the written decision of the hearing officer, the reasons for the appeal and the reply. The role of the county board, in reviewing the decision of the impartial hearing officer, is to determine whether the impartial hearing officer's decision was arbitrary, capricious, or not supported by the facts presented to the hearing officer. The county board may either uphold, modify, or reverse the decision of the impartial hearing officer.

6. Appendices.

6.1 Grievance Form (Appendix 207 A)