



L.E. Phillips Memorial
Public Library

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Category: Human Resources

Policy Title: GRIEVANCE PROCEDURE
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PROCEDURES FOR APPEALS.

Purpose and Applicability. 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 L.E. Phillips Memorial Public Library, where appropriate, as required by Wis. Stat. 66.0509(1m). The library expects employees and management to exercise reasonable efforts to resolve any questions, problems or misunderstandings prior to utilizing the grievance procedure. 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 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 library. This grievance procedure does not create a legally binding contract or a contract of employment.

Definitions.

A. "Discipline" means an employment action that results in disciplinary suspension or disciplinary demotion/reduction in rank. "Discipline" does not include any performance improvement plans; performance evaluations or reviews; documentation of employee acts or omissions; non-disciplinary wage, benefit or salary adjustments; changes in assignment; non-material employment actions; and 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.

B. "Termination" means a 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, death, resignation, non-renewal of contract, job abandonment, or separation due to disability or retirement.

C. 1. "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 individuals hired on a limited term, 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. "Employee" for purposes of the procedure for grievances concerning workplace safety, shall include all regular full-time and part-time employees, and individuals hired on a limited term, temporary, casual, project, or seasonal basis. The term "employee" excludes independent contractors.

D. "Workplace Safety" shall mean any alleged violation of any standard established under state law or rule or federal law or regulation relating to workplace safety. "Workplace Safety" does not include conditions of employment unrelated to physical health and safety matters, including, but not limited to, hours, overtime, staffing and work schedules.

General Provisions.

A. Role and Appointment of "impartial hearing officer".

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, to hear the parties' respective arguments and, if appropriate, order an appropriate remedy.
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. 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.
4. The hearing officer may apply relaxed standards for the admission of evidence and may request oral or written arguments and replies.
5. The impartial hearing officer shall be selected by the library director based upon the nature of the matter in dispute.

B. Costs.

1. Each party shall 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.
2. The fees for the impartial hearing officer will be paid by the library.

C. Time Limits.

1. The term "days" as used in this provision means calendar days. 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 an observed holiday by the library, the time limit is the next day which is not a Saturday, Sunday or an observed holiday by the library.
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. The employer and grievant may mutually agree, in writing, to waive any step to facilitate or expedite resolution of the grievance.
4. If the grievance is not answered within the time limits, the grievant may proceed to the next available step within 7 days.
5. Any issues involving the timeliness of a grievance shall be resolved by the library director.

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

E. Individual Claim: Any grievance filed regarding workplace safety must relate to issues personal to the grievant filing the grievance and may not relate to, without limitation by

enumeration, safety or property or third parties. A grievance filed regarding workplace safety must be filed by the grievant claiming he or she has been personally affected by the alleged workplace safety violation.

F. Representation: The grievant shall have the right to one representative during the grievance procedure at the grievant's expense. The grievant may have more than one representative if agreed upon by the parties. The representative shall not be a material witness to the dispute.

Procedure for Grievances Concerning Employee Terminations and Employee Discipline and Workplace Safety.

A. Step 1: An earnest effort shall 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 shall be reduced to writing by the employee who shall submit it to the assistant director, with a copy to the library director.

1. The written grievance shall contain a clear and concise statement of the pertinent facts, the dates the incidents occurred, the identities of the persons involved, documentation related to the grievance in possession of the grievant, the steps taken to informally resolve the dispute and the results of those discussions, all reasons why the actions of the supervisor should be overturned, if applicable, and the remedy that should be issued. A grievance alleging a workplace safety issue shall also identify the workplace rules allegedly violated, if applicable. The form to be used for a written grievance is available from the office of the assistant director.
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 assistant director will reply in writing to the employee within 14 days after receipt of the written grievance.

B. Step 2: If the grievance is not settled in Step 1, and the employee wishes to appeal the decision, the employee shall submit the written grievance to the library director to request a hearing before an impartial hearing officer.

1. **Time Limit:** If the employee does not submit a written grievance to the library director requesting a hearing before an impartial hearing officer within 14 days after receipt of the assistant director'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.
2. **Burdens of Proof and Production:** The grievant shall bear the burden of production and burden of proof. The rules of evidence shall not be strictly followed, but no factual conclusions may be based solely on hearsay evidence. Not less than ten days prior to the hearing, the grievant and the administration shall exchange lists of witnesses and documentary evidence that they intend to introduce at the proceedings.
3. After receiving the evidence and closing the hearing, the impartial hearing officer shall issue a written decision. The decision shall contain findings of fact, analysis, conclusions of law, a final decision and order, and other information the impartial hearing officer deems necessary. The impartial hearing officer must answer the following question: Based on the preponderance of the evidence presented, has the grievant proven the decision of the administration was arbitrary or capricious? The hearing officer shall render a written decision to the employer and employee within 15 days from the date of the hearing.
4. The impartial hearing officer shall have the power to sustain or deny the grievance. The impartial hearing officer may request oral or written arguments and replies. The impartial hearing officer shall have the power to order a reasonable remedy, which may include reduction of suspension, transfer to original position from demoted position,

reinstatement with or without some or all back pay. Remedial authority shall be subject to the determination and approval of the library director, and shall be addressed by the governmental body in the event the grievance is sustained.

C. Step 3: The employer or employee may appeal the decision of the hearing officer to the library board. The decision of the governing body shall be final and binding upon the parties.

1. **Time Limit:** The employee or employer may request a review by the library board by filing a request with the library director 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 shall 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 within 30 days. If not timely submitted by the grievant, the grievance can no longer be addressed in the grievance procedure.
2. **Level of Review:** The library board shall review only the written decision of the hearing officer, the reasons for the appeal and the reply. The role of the library 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 library board shall not consider any information or argument not presented at the hearing before the impartial hearing officer. The findings of fact of the impartial hearing officer shall not be overturned unless clearly erroneous. In the event the library board does not sustain the impartial hearing officer's decision, the library board may either uphold, modify or reverse the decision of the impartial hearing officer.
3. All actions of the governing body involving the grievance shall be heard, deliberated and voted upon in open session. Such actions shall be by simple majority vote. All decisions shall be in writing and filed with the clerk or secretary of the governmental body within five days of the date of the final decision. A copy of the final decision shall be delivered to the grievant and the administration. The library board's decision is final and is not subject to appeal.