



Approved by Vice President for Administration David Miller and
Approved by University Staff Council 7/1/15

UNIVERSITY OF WISCONSIN SYSTEM ADMINISTRATION UNIVERSITY STAFF GRIEVANCE POLICY AND PROCEDURES

Original Issue Date: July 1, 2015

Policy Purpose: The purpose of this grievance policy is to establish a dispute resolution process for University of Wisconsin System Administration (UWSA) university staff. UWSA developed formal grievance procedures in accordance with [Wis. Stat. § 36.115\(4\)](#) and with [UPS Operational Policy GEN 14: Grievance Procedures](#). Prior to filing a formal written grievance, university staff employees are encouraged to first seek resolution of their grievances through informal discussions with their immediate supervisors. If such a discussion does not resolve the matter, university staff employees may file a formal grievance following the procedures set forth in this policy.

Policy Definitions:

“Dismissal” means separation from employment for disciplinary or performance reasons.

“Discipline” means any action taken by a University of Wisconsin institution with respect to a university staff member with an expectation of continued employment which has the effect, in whole or in part, of a penalty.

A “grievance” is a formal, written request for a specific action to solve a problem or redress an alleged wrong. The grievance process contains three steps. Step One is at the department (or equivalent unit) level; at Step Two the grievance is presented to an impartial hearing officer or to the Wisconsin Employment Relations Commission (WERC); and Step Three is an appeal to the Board of Regents.

“Grievance procedure” means the process through which certain working conditions, discipline, or dismissal of a UW System university staff member can be appealed.

A “grievant” is a person who files a grievance.

“Impartial hearing officer” means a grievance review committee established through shared governance, an arbitrator employed by the Wisconsin Employment Relations Commission (WERC), or an arbitrator from a roster developed by UW System Administration of arbitrators with a set fee for resolving a discharge case.

“Just cause” means a standard that is applied to determine the appropriateness of a disciplinary action. The elements of determining whether just cause exists are:

- Whether the employee had notice of workplace expectations and potential consequences if those expectations were not met;
- Whether the workplace expectations were reasonably related to business efficiency and performance the employer might reasonably expect from the employee;
- Whether an investigation was undertaken by the employer before discipline or discharge to determine whether the employee violated expectations;

- Whether the investigation was conducted fairly and objectively;
- Whether the employer obtained substantial evidence of the employee's guilt;
- Whether workplace expectations were applied fairly and without discrimination; and
- Whether the degree of discipline imposed reasonably related to the seriousness of the employee's offense and the employee's past record.

“Layoff” means separation from employment for reasons of budget or due to the discontinuance, curtailment, modification, or redirection of a program.

The “right to representation” at a grievance meeting or hearing is an employee’s right to designate a representative to be present at the meeting or hearing. A representative has the right to make comments and ask clarifying questions, but he or she may not speak for the employee in response to questions.

“University staff” are members of the university workforce who contribute in a broad array of positions in support of the university’s mission and are not exempt (hourly¹) from the overtime provisions of the Fair Labor Standards Act (FLSA).

[¹Note: All FLSA exempt employees holding positions in the State of Wisconsin “classified” service as of June 30, 2015 are given the choice to remain in the university staff for as long as they retain their existing positions, or to voluntarily be reassigned to a position that the institution has designated as either an academic staff or limited appointment position – see [UPS Operational Policy TR 3: Voluntary Reassignment of Formerly Classified FLSA-Exempt Employees to Academic Staff/Limited Appointment Positions](#)]

Who This Policy Applies To: A university staff employee with an expectation of continued employment may file a formal written grievance if he or she wishes to appeal working conditions, discipline, layoff, or dismissal. A representative may file a grievance on behalf of the grievant. A group of employees may file a joint formal written grievance. All written grievances must have a single spokesperson.

A university staff employee serving a probationary period may file a formal written grievance appealing working conditions. Probationary employees are not entitled to file grievances on discipline, layoff, or dismissal.

Grievable Subjects: A university staff employee with an expectation of continued employment may file a grievance regarding working conditions or contesting a layoff or a disciplinary action if the employee alleges that the action was taken without just cause. Grievances may be moved through the steps of the grievance procedure (steps listed later in policy) as follows:

- Grievances regarding working conditions may be grieved only through **Step One** of the grievance procedure.
- Written reprimands may be grieved only through **Step One** of the grievance procedure.
- Layoffs may be grieved only through **Step Two** of the grievance procedure. At issue in layoff grievances will be only whether the applicable layoff procedure was followed.
- Disciplinary suspensions may be grieved only through **Step Two** of the grievance procedure. At issue in grievances appealing the imposition of discipline will be whether just cause for the discipline exists.
- An allegation of abuse of management rights may be filed as a grievance regarding working conditions only through **Step One**.

- Dismissals must be grieved beginning at **Step Two A** (standard procedure) or **Two B** (grandfathered WERC procedures).
 - Only Step Two A grievances may be appealed to the Board of Regents through Step Three of the grievance procedure.

Non-Grievable Subjects: Actions not grievable under this policy include the following:

- Verbal warning or verbal reprimand
- Termination of a temporary employment appointment
- Release from probation
- Performance evaluations
- Claims of unlawful actions, including, but not limited to, discrimination or harassment, may not be grieved through this process. Claims should be submitted to the Office of Human Resources and Workforce Diversity or to the appropriate state or federal agency.
- Certain rights are held by management and are therefore non-grievable subjects. Management rights include, but are not limited to:
 - Utilizing personnel, methods, and means in the most appropriate and efficient manner possible as determined by management
 - Managing and directing UWSA employees
 - Determining the size and composition of the work force
 - Determining the content of written policies and procedures
 - Managing the job evaluation system that includes position classification, the establishment of position qualification standards, the establishment and abolition of classifications, and the allocation of positions to classifications.

Right to Representation: A university staff employee has the right to representation at any meeting if he or she reasonably believes the meeting could lead to discipline.

No Retaliation: UWSA is prohibited from retaliating against a grievant, against a grievant's representative, or against a witness, or a potential witness, in the grievance proceedings.

Time Limits: If a university staff employee fails to observe any grievance procedure time limits specified below, the grievance will be considered to be resolved. If the employer fails to observe grievance procedure time limits, the grievance will be automatically appealed to Step Two of the grievance procedure if the grievance is eligible to be appealed. If the grievance is not eligible to be appealed to Step Two, the grievant, at his or her option, may schedule a meeting with the Senior Associate Vice President for Human Resources and Workforce Diversity to discuss how to resolve the grievance. The parties may mutually agree in writing to extend the time limits in any step of the grievance procedure.

Grievance Contents: Grievances shall be submitted on a form provided by UWSA, which is included in the appendix. Each written grievance must provide a statement of the grievant's allegations; describe the facts upon which the grievance is based; and specify the remedy or relief sought.

Remedy or Relief: UWSA is prohibited from granting a remedy or relief that is retroactive beyond 30 days immediately preceding the filing of the grievance at the first step. No financial award may be ordered for any employee beyond back pay and benefits actually lost.

Steps of the Grievance Procedure:

	STEP ONE	STEP TWO		STEP THREE
		STEP 2A	STEP 2B (employed on June 30, 2015)	
DISMISSAL		X	X	X
LAYOFF	X	X	X	
DISCIPLINE	X	X	X	
WORKING CONDITIONS	X			

Prior to filing a grievance, employees are encouraged to pursue informal attempts to resolve matters through discussions between the employee and supervisor.

Step One: If informal attempts to resolve a dispute are not successful, an employee may file a grievance with the employee's department head, director, equivalent administrator or with the Director of the Office of Human Resources and Workforce Diversity no later than 30 calendar days from the date the grievant first became aware, or should have become aware (with the exercise of reasonable diligence), of the matter grieved. If appropriate notice is provided to the employer, grievants and their representatives are permitted a reasonable amount of time to investigate and prepare a grievance without loss of pay.

Within 30 calendar days of receipt of the grievance, an employee from the Office of Human Resources and Workforce Diversity will meet with the grievant to hear the grievance. The grievant shall receive a written decision no later than seven (7) calendar days after this meeting. If the subject of the grievance is not discipline or layoff, there is no further opportunity for appeal.

Step Two A (Standard Procedure): Step Two A procedures for suspension, discharge, and layoff grievances are set forth below.

Suspension: When a grievant is dissatisfied with the Step One decision and wishes to appeal the grievance to Step Two A, the grievant must inform the individual who wrote the Step One decision or the Office of Human Resources and Workforce Diversity of his or her desire to appeal the grievance within ten (10) calendar days of receipt of the answer in Step One. When a suspension grievance is appealed to Step Two A, a grievance hearing will be held either before a WERC hearing officer acting as an impartial hearing officer or before a UWSA university staff grievance committee functioning as an impartial hearing officer.

Discharge: When a grievant who wishes to use the standard procedure alleges that a discharge decision was not based on just cause does not need to file a grievance at Step One; rather, such a grievance may begin at Step Two A. To file a grievance at Step Two A, a discharged employee must inform the Office of Human Resources and Workforce Diversity of his or her desire to appeal the discharge decision to Step Two A within 30 days of the date of the written notice of dismissal. When a discharge grievance is begun at Step Two A, a hearing will be held before an impartial hearing officer selected from the UWSA roster of arbitrators who have agreed to act as an impartial hearing officer for a set fee.

Layoff: When a grievant who has filed a layoff grievance is dissatisfied with the Step One decision and wishes to appeal the grievance to Step Two A, the grievant must inform the individual who wrote the Step One decision or the Office of Human Resources and Workforce Diversity of his or her desire to appeal the grievance within ten (10) calendar days of receipt of the answer in Step One. When a layoff grievance is appealed to Step Two A, a grievance hearing will be held before a WERC hearing officer acting as an impartial hearing officer .

Regardless of what body or individual is acting as the impartial hearing officer, the impartial hearing officer may refuse to hear a suspension, discharge, or layoff grievance for lack of timeliness. The impartial hearing officer's fee, if there is one, shall be split equally between UWSA and the employee. In the event that the impartial hearing officer recommends that the Director of the Office of Human Resources and Workforce Diversity grant the grievance, UWSA shall be responsible for paying 100% of the fee.

The grievant shall have the right to be represented at the hearing, and shall have the right to offer witnesses. The hearing shall be closed unless it is opened by mutual consent. Audio recording only of the hearings may be conducted.

Following all hearings before an impartial hearing officer, the impartial hearing officer (including the UWSA university staff grievance committee when it functions as an impartial hearing officer) will make a written report and recommendations to the President of the UW System within 14 calendar days of the hearing. Within 20 days of receipt of the written report and recommendations, the President, or the President's designee, shall issue a written statement accepting or rejecting the findings of the impartial hearing officer and explaining how the recommendations will be implemented. If the subject of the grievance is suspension or layoff, there is no further opportunity for appeal after the issuance of the written decision by the President or the President's designee. If the subject of the grievance is discharge, the grievant may submit a Step Three grievance to the Board of Regents.

Step Two B (Grandfathered Procedure for Certain University Staff): An employee who held permanent status in the classified service on June 30, 2015 and who, according to the provisions of Wis. Stat. § [36.115\(6\)](#), retains Wisconsin Statute Chapter 230 appeal rights may appeal a disciplinary action (suspension, demotion, or reduction in base pay), layoff or discharge using the following Step Two B (Grandfathered Procedure). Step Two B procedures are an alternative to Step Two A procedures. When a grievant is eligible to use the grandfathered Step Two B procedures wishes to appeal a Step One answer, the grievance must be appealed from Step One to the UW System President or President's designee within ten (10) calendar days from receipt of the answer in Step One. The President or designee will meet with the grievant to hear the grievance within 30 days of the filing, and will provide a written response within 14 calendar days of the hearing. The deadlines may be extended by mutual agreement.

The grievant shall have the right to be represented at the hearing. The hearing shall be closed unless it is opened by mutual consent.

If the employee is still dissatisfied with the decision as issued by the UW System President or designee, the employee may appeal the decision to the Wisconsin Employment Relations Commission under Wis. Stat. § [230.44\(1\)\(c\)](#) within 30 calendar days from the date of the decision being appealed. If an appeal to WERC is filed, no further steps in the grievance process will apply. The decision of the WERC may be subject to judicial review, but no appeal to the UW Board of Regents is available.

Step Three – University of Wisconsin System Board of Regents Review: This step applies to dismissal cases only. A grievant dissatisfied with the Step Two A (Standard Procedure) decision may appeal the decision to the UW System Board of Regents. If the matter is not appealed to the Board of

Regents within 30 calendar days of receipt of the Step Two statement accepting or rejecting the findings of the impartial hearing officer, the grievance will be considered ineligible for Board of Regents review. Upon receiving a written appeal, the President of the Board of Regents shall refer the appeal to the Board of Regents Personnel Matters Review Committee. In accordance with Board of Regents Bylaws, the Committee shall conduct a review based on the record of the Step Two A proceedings and shall prepare recommended findings and a decision, and shall transmit them to the full Board of Regents for final action. The full Board may confirm the Personnel Matters Review Committee's recommendations, or it may direct a different decision. No further appeal shall be available to the parties.

Contact Information

For information about grievance procedures or how to appeal an action, contact the Office of Human Resources and Workforce Diversity.

Approved

This policy was approved by David L. Miller, the UW System Senior Vice President for Administration and Fiscal Affairs, on July 1, 2015.

Appendix

[Grievance Form](#)