



## UNIVERSITY STAFF COMPLAINT PROCEDURE AND GRIEVANCE POLICY

*Approved by Chancellor Gary L. Miller 6/1/2015*

### BACKGROUND AND DEFINITIONS

The UW-Green Bay complaint procedure and grievance policy establish a dispute resolution process for university staff and members of the public. UW-Green Bay has developed a formal complaint procedure and grievance policy in accordance with [Wis. Stat. § 36.115\(4\)](#) and with [UPS Operational Policy: GEN 14 and GEN 24](#).

A “complaint” is an allegation concerning conduct which violates UW System or UW-Green Bay rules or policies or which adversely affects the employee’s performance or obligations to the University.

“Complaint procedure” means the process through which allegations of conduct that violate the rules or policies of the institution, or which adversely affect a university staff member’s performance or obligation to the university can be brought forward by a UW System employee or member of the public.

A “grievance” is a personnel problem alleged by an employee that violates the federal or state constitution, a federal or state law, an employment contract, or a UW System or UW-Green Bay policy.

“Grievance procedure” means the process through which certain working conditions, discipline, or dismissal of a UW System university staff member can be appealed. All university staff are eligible to file a grievance through this provision.

“Impartial Hearing Officer” means the University Staff Personnel Committee, an arbitrator from a roster developed by UW System Administration arbitrators, an arbitrator from the Wisconsin Employment Relations Commission (WERC) roster of neutral decision makers not employed by the WERC or an arbitrator employed by the Wisconsin Employment Relations Commission.

“Disciplinary actions” include written reprimands, suspension, demotion and reduction in base pay.

### COMPLAINT PROCEDURES

Complaints against university staff may be submitted by administrators, students, other faculty, academic staff, university staff or members of the public.



In situations where complaints cannot be resolved informally, formal complaints shall be in writing to the Chancellor describing specifically the alleged misconduct. The misconduct must be clearly delineated in the complaint.

The Chancellor shall notify the university staff member who is the subject of the complaint in writing of the specific allegations, the identity of the person or party who made the complaint, and his/her disposition of the complaint.

The university staff member who is the subject of the complaint will have the opportunity to respond to the Chancellor about the complaint in writing.

The Chancellor may recommend an informal discussion and settlement of the complaint before reviewing and taking action. The informal discussion and settlement route shall follow the upward levels of supervision and employment. If the complaint is not settled by this route, it shall be returned to the Chancellor. The Chancellor may direct an investigation be conducted documenting the findings and recommendations concerning the enforcement of UWS and UW-Green Bay rules and policies.

If the results of the investigation result in discipline issued to the employee or dismissal of employment of a university staff employee, he or she may file a grievance in accordance with the provisions of this chapter.

If the results of the investigation disclose that the complaint was without foundation, the university officer or management designee shall file such findings and recommendations with the Chancellor. Copies of the recommendations shall be served on all parties of the investigation.

## **GRIEVABLE SUBJECTS**

University staff with an expectation of continued employment may file a formal grievance contesting layoffs and disciplinary actions if the employee alleges that the action was taken without just cause.

These grievances may be moved through the steps of the grievance procedure as follows:

- Layoffs may be grieved only through Step Two of the grievance procedure.
- Written reprimands may be grieved only through Step One of the grievance procedure.
- Other disciplinary actions may be grieved only through Step Two of the grievance procedure.
- Dismissals may be grieved beginning at Step Two A or B, and Step Two A grievances may be processed through Step Three of the grievance procedure.



University staff may file a formal grievance regarding working conditions if the employee alleges that the employer failed to comply with an applicable policy, rule, or procedure. Such a grievance may allege that the University failed to provide safe working conditions. Grievances regarding working conditions may be grieved through Step One of the grievance procedure.

## **NON-GRIEVABLE SUBJECTS**

Actions not grievable under this policy include the following:

- Oral warning or oral reprimand
- Termination of an appointment for temporary employment
- Release from probation
- Performance evaluations
- Claims by employees who wish to complain of unlawful discrimination or harassment must be submitted to the Office of Human Resources according to the provisions of the [Harassment and Discrimination Policy](#) or to the appropriate state or federal agency.
- Activities falling under management rights are not grievable. 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 employees
  - Determining the size and composition of the work force
  - Determining the content of written policies and procedures
  - Managing the job evaluation system, which includes position classification, the establishment of position qualification standards and the allocation of positions to classifications.
  - Hiring, promotions, assigning or returning employees
  - Establishing reasonable work expectations

## **RIGHT TO REPRESENTATION**

University staff employees have the right to representation at any meeting, including a hearing, if an employee reasonably believes that the meeting could lead to discipline. If appropriate notice is provided to the employer, employees and their representatives are permitted a reasonable amount of time to investigate and prepare a grievance without loss of pay. The representative has the right to observe and



take notes. They have a limited right to speak but can serve as an advisor to the employee including repeating certain points stated by employee, explaining significance of points made by the employee, and speaking about practices at the work site. The representative has no right to speak for the employee in response to questions.

## GRIEVANCE PROCEDURE

Prior to filing a formal grievance, university staff employees are encouraged to first seek resolution of their grievances through informal discussions with their immediate supervisors. Human Resources may serve as a resource to mediating a resolution. If such a discussion does not resolve the matter, an employee may file a formal grievance following the procedures set forth in this policy.

If an employee fails to observe any grievance procedures time limits, the grievance will be dismissed. Time limits may be extended only by mutual agreement between the grievant and a UW-Green Bay management designee.

Grievances shall be pursued in accordance with the following steps and time limits.

- Working condition and written reprimand grievances may be processed through Step One only.
- Layoff and discipline grievances will begin at Step One and may proceed no further than Step Two.
- Dismissal appeals will begin at Step Two, as outlined below, and may proceed to Step Three.

	STEP ONE	STEP TWO		STEP THREE
		STEP 2A	STEP 2B (employed as of June 30, 2015)	
WORKING CONDITIONS	X			
WRITTEN REPRIMAND	X			
OTHER DISCIPLINE	X	X	X	
LAYOFF	X	X	X	
DISMISSAL		X	X	X

*A flow chart of grievance steps are outlined in Attachment #2.*

Step One: If informal attempts to resolve a matter through discussion between an employee and supervisor are not successful, a grievance may be filed. Grievances shall be filed with the employee’s supervisor or with an HR representative no later than thirty (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. Grievances shall be submitted on the Employee Grievance Report found in [UPS Operational Policy GEN 14 \(Page 6\)](#). Each grievance shall describe the facts upon which the grievance is based and the relief sought. Within thirty (30) calendar days of receipt of the written grievance, the respective university officer, or another appropriate management designee, 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 will be no further opportunity for appeal.

Step Two A (Standard Procedure): When an employee has filed a grievance alleging that a discipline decision (not including written reprimands) was not based on just cause and is dissatisfied with the Step One decision, the employee may appeal the decision to an impartial hearing officer. To file at Step Two A, the grievant must inform the Human Resources Office of his or her desire to appeal within ten (10) calendar days from receipt of the answer in Step One. Human Resources will review the options for an impartial hearing officer with the employee. The employee must select which impartial hearing officer will hear the case at the time the appeal is filed. The arbitration fee, if applicable, shall be split equally between the University and the employee. In the event that the impartial hearing officer's recommendation to the Chancellor is found to be in the grievant's favor, and the Chancellor accepts that recommendation, the University shall be responsible for paying 100% of the fee. An appeal of a dismissal will begin at Step Two and must be filed within twenty (20) days of the date of written notice of dismissal.

The impartial hearing officer will determine if just cause exists for the discipline or discharge. For cases involving layoff, the issue before the impartial hearing officer will be whether the applicable layoff procedure was followed.

The impartial hearing officer may refuse to hear a grievance for lack of timeliness or because the attempted grievance involves a non-grievable issue.

The impartial hearing officer will be charged with hearing the case within thirty (30) days of the filing, and responding within fourteen (14) calendar days of the hearing. The deadlines may be extended by mutual agreement. Hearings may be recorded. The hearing shall be closed unless it is opened by mutual consent.



The impartial hearing officer will make a report and recommendations to the Chancellor or to another appropriate management designee within fourteen (14) calendar days of the hearing. Within twenty (20) days of receipt of the report and recommendations, the management designee shall issue a statement accepting or rejecting the findings of the impartial hearing officer and explaining how the recommendations will be implemented.

Step Two B (Grandfathered Procedure for Certain University Staff): An employee who held permanent status in State employment prior to July 1, 2015 and according to the provisions of [Wis. Stat. § 36.115\(6\)](#) retains [Wisconsin Statute Chapter 230](#) appeal rights, instead of using the Standard Procedure may appeal a disciplinary action (suspension, demotion, or reduction in base pay), layoff or discharge using the following special procedure. Such a grievance may be appealed directly from Step One to the Chancellor's designee within ten (10) calendar days from receipt of the answer in Step One. The Chancellor's designee will meet with the grievant to hear the grievance within thirty (30) days of the filing, and will answer within fourteen (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.

Thereafter, if the employee is still dissatisfied with the decision as issued by the Chancellor's designee, the employee may appeal the decision to the Wisconsin Employment Relations Commission (WERC) under [Wis. Stat. § 230.44\(1\)\(c\)](#) within thirty (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 – UW Board of Regents Review: *For cases of dismissal only*, a grievant that is dissatisfied with the Step Two A (Standard Procedure) decision may appeal the decision to the UW Board of Regents. If the matter is not appealed to the Board of Regents within thirty (30) calendar days, the grievance will be considered ineligible for Board review. Upon receiving an appeal, the President of the Board 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 matter created by the impartial hearing officer and the Chancellor's designee, and it shall prepare recommended findings and a decision, and shall transmit them to the full Board for final action. The full



Board may confirm the Committee's recommendations, the Chancellor's designee's decision, or it may direct a different decision. No further appeal shall be available to the parties.

- *A flow chart of grievance steps are outlined in Attachment #2.*

UW-Green Bay is prohibited from granting relief that is retroactive beyond thirty (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.

For information about the operation of the grievance procedure or how to appeal an action, contact Human Resources Office.

## **FREEDOM FROM REPRISAL**

Grievants, complainants, representatives, witnesses, potential witnesses, or Impartial Hearing Officers are guaranteed freedom from reprisal. Direct or subtle action taken by parties involved in a grievance or complaint intended to harass the complainant or grievant shall be considered reprisal. Normal administrative prerogatives and procedures such as reassignment of duties or employee evaluation are not forms of reprisal unless the intent of harassment can be substantiated. Any complainant or grievant who believes that reprisal is being threatened or effected may bring a statement of facts to the Office of Human Resources or alternate designee who will investigate the situation and report the findings with recommendation to the Chancellor. The Chancellor will act upon this recommendation within ten (10) business days of receipt.



## GRIEVANCE PROCEDURE

