POLICY: UNIVERSITY STAFF GRIEVANCE POLICY AND PROCEDURES
AUTHOR: JOHN LOHMANN, INTERIM DIRECTOR OF HUMAN RESOURCES
ISSUE DATE: April 7, 2015
REVISED DATE:

I. PURPOSE:

The University of Wisconsin — Platteville grievance policy establishes a dispute resolution process for university staff in accord with Wis. Stat. § 36.115(4) and with University Personnel System (UPS) Operational Policy: GEN 14.

II. BACKGROUND:

The State of Wisconsin authorized and directed the University of Wisconsin System to develop two distinct new personnel systems: one for University of Wisconsin – Madison employees and one for all other UW System employees. Wis. Stat. § 36.115 (2) – (3). All system employees holding positions in the classified or unclassified service of the civil service system under Wis. Stat. Chapter 230 on June 30, 2015, are included in the personnel systems developed under subs. (2) – (3), effective July 1, 2015. The University of Wisconsin — Platteville, as of July 1, 2015, will operate under the University Personnel System (UPS). This policy establishes grievance procedures for university staff who were formerly members of the classified staff (subject to Wis. Stat. Chapter 230) as of June 30, 2015, and for university staff hired on or after July 1, 2015, who by the terms of their appointment, have an expectation of continued employment.

III. DEFINITIONS

1. "Dismissal": separation from employment for disciplinary or performance reasons.

2. "Discipline": any action taken by University of Wisconsin — Platteville 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.

3. "Grievance procedure": the process through which certain working conditions, discipline or dismissal of a University of Wisconsin — Platteville university staff member with an expectation of continued employment can be appealed.

4. "Impartial Hearing Officer": a grievance review committee established through shared governance, a hearing officer selected by an approved selection process established through shared governance, an arbitrator employed by the Wisconsin Employment Relations Commission (WERC), arbitrator from the WERC roster of neutral decision-makers not employed by the WERC, or an arbitrator from a roster of
arbitrators with a set fee developed by UW System Administration for the resolution of a discharge case.

5. "Just Cause": the standard to be applied to determine the appropriateness of a disciplinary action. The elements of determining whether just cause exists are:

   a. Whether the employee had notice of workplace expectations and potential consequences if those expectations were not met;
   b. Whether the workplace expectations were reasonably related to business efficiency and performance the employer might reasonably expect from the employee;
   c. Whether an investigation was undertaken by the employer before discipline or discharge to determine whether the employee violated expectations;
   d. Whether the investigation was conducted fairly and objectively;
   e. Whether the employer obtained substantial evidence of the employee’s guilt;
   f. Whether workplace expectations were applied fairly and without discrimination; and/or;
   g. Whether the degree of discipline imposed reasonably related to the seriousness of the employee’s offense and in light of the employee’s past work history with the University of Wisconsin – Platteville.

6. "Layoff": separation from employment for reasons of budget or due to the discontinuance, curtailment, modification, or redirection of a program.

7. "University staff": members of the university workforce who contribute in a broad array of positions in support of the University of Wisconsin – Platteville mission and who are not exempt from the overtime provisions of the Fair Labor Standards Act (FLSA).

IV. APPLICATION:

This policy applies to University of Wisconsin – Platteville university staff employees.

V. PROCEDURE:

1. Parties to a Grievance:

   a. Probationary: A university staff employee serving a probationary period may file a grievance appealing working conditions.

   b. Continued expectation of employment: A university staff employee with an expectation of continued employment may file a formal grievance if he or she wishes to appeal working conditions, discipline, layoff or dismissal from
University of Wisconsin – Platteville. With the consent of the employee, a representative may file a grievance on behalf of the grievant.

c. **Groups:** Groups may file a joint grievance. All group grievances must have a single spokesperson who will communicate on behalf of the group.

d. **Respondent:** Respondent is the University of Wisconsin – Platteville, the employer.

2. **Grievable Subjects:**

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

   b. Probationary university staff employees may not file a formal grievance contesting layoffs and disciplinary actions.

   c. Both probationary university staff employees and university staff employees with an expectation of continued employment may file a grievance appealing working conditions.

3. **Process by Grievance Subject:**

   a. **Working Conditions:** Grievances regarding working conditions may be grieved only through Step One of the grievance procedure. University staff employees may file a formal grievance regarding working conditions if the employee alleges that the employer failed to comply with an applicable Board of Regents or University of Wisconsin – Platteville policy or procedure.

   b. **Written Reprimands:** Written reprimands may be grieved only through Step One of the grievance procedure.

   c. **Layoffs:** Layoffs may be grieved only through Step Two of the grievance procedure.

   d. **Disciplinary suspensions:** Disciplinary suspensions may be grieved only through Step Two of the grievance procedure.

   e. **Dismissals:** Dismissals may be grieved:

      i) Beginning at **Step Two A** or **Step Two B**.

      ii) If the grievance is processed through **Step Two A**, the grievance may be processed through **Step Three** of the grievance procedures.

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

a. Verbal warning or verbal reprimand;
b. Termination of a temporary employment appointment;
c. Release from probation;
d. Performance evaluations;
e. Claims of unlawful actions, including, but not limited to, discrimination
   and/or harassment, may not be grieved through this process. These should
   be submitted to the University of Wisconsin – Platteville Human
   Resources office and/or to the appropriate state or federal agency.
f. Activities falling under management rights are not grievable.
Management rights include, but are not limited to:
   i) Utilizing personnel, methods, and means in the most appropriate
      and efficient manner possible as determined by management;
   ii) Managing and directing University of Wisconsin – Platteville
       employees;
   iii) Determining the size and composition of the work force;
   iv) Determining the content of written policies and procedures; and/or;
   v) Managing the job evaluation system, which includes position
      classification, the establishment of position qualification standards,
      the establishment and abolition of classifications, and the
      allocation of positions to classifications.

5. Right to Representation:

University staff employees have the right to representation at any meeting if an employee
reasonably believes that the meeting could lead to discipline.

6. Time Limits:

If an employee fails to observe any grievance procedure time limits, the grievance will be
considered to be resolved. If the employer fails to observe any grievance procedure time
limits, a grievance that is eligible to be appealed to a higher step will be automatically
appealed.
Time limits may be extended only by mutual agreement between the grievant and a
University of Wisconsin – Platteville management designee.

7. Grievance Form and Contents:

Grievances shall be submitted on a form provided by the University of Wisconsin –
Platteville. Each grievance shall provide a statement of the grievant’s allegations,
including a statement of the facts upon which the grievance is based, and a specific
request for the remedy/relief sought.

8. Remedy/Relief:
The University of Wisconsin – Platteville 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 actual back pay and/or benefits actually lost.

9. **Procedural Steps**

Prior to filing a formal grievance, university staff employees are encouraged to first seek resolution through informal discussion with their immediate supervisor. If the discussion does not resolve the matter, an employee may file a formal grievance following the procedures set forth herein.

<table>
<thead>
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<th>Exhibit 1.: Grievance Procedural Steps</th>
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<tbody>
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<td><strong>Subject of Grievance</strong></td>
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<td>Discipline</td>
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<td>Working Conditions</td>
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Notes:  
1) Probationary employees may only grieve working conditions.  
2) Step Two B is only available to university staff working as classified staff prior to July 1, 2015.  
3) Step Two A and Step Two B are alternatives. If available to the employee only one may be chosen but not both.

**a. Step One:**

If informal attempts to resolve a grievance are not successful, an employee may file a grievance with: 1) the employee's department head, director or equivalent administrator, or, 2) with the Director of Human Resources, 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. If appropriate notice is provided to the employer, employees and their representatives will be permitted a reasonable amount of time to investigate and prepare a grievance without loss of pay.

As soon as practicable, but in no case later than thirty (30) calendar days of receipt of the written grievance, the individual to whom the grievance was filed with, will meet with the grievant to hear the grievance. The grievant shall receive a written decision no later than seven calendar days after this meeting.

**b. Step Two:**

i) **Step Two A (Standard Procedure):**
When an employee has filed a grievance alleging that a **disciplinary** decision 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 individual who wrote the Step One response of the grievant's desire to appeal within ten (10) calendar days from receipt of the answer in Step One.

When an employee has filed a grievance alleging that a **dismissal** decision was not based on just cause will begin at Step Two and must be filed within thirty (30) days of the date of written notice of dismissal.

At issue in **discipline and discharge** cases before the impartial hearing officer will be whether just cause for the discipline or discharge exists.

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 grievance involves a non-grievable issue. Any impartial hearing officer fees or costs shall be split equally between the University of Wisconsin – Platteville and the grievant. In the event the employee prevails, the University of Wisconsin – Platteville shall pay the entire fee.

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 after the hearing. The deadlines may be extended by mutual agreement. Hearings may be recorded.

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.

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

**ii) 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),
When an employee has filed a grievance alleging that a **disciplinary** decision 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 individual who wrote the Step One response of the grievant's desire to appeal within ten (10) calendar days from receipt of the answer in Step One.

When an employee has filed a grievance alleging that a **dismissal** decision was not based on just cause will begin at Step Two and must be filed within thirty (30) days of the date of written notice of dismissal.

At issue in **discipline and discharge** cases before the impartial hearing officer will be whether just cause for the discipline or discharge exists.

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 grievance involves a non-grievable issue. Any impartial hearing officer fees or costs shall be split equally between the University of Wisconsin – Platteville and the grievant. In the event the employee prevails, the University of Wisconsin – Platteville shall pay the entire fee.

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 after the hearing. The deadlines may be extended by mutual agreement. Hearings may be recorded.

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.

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**ii) 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, instead of using the Step Two A Standard Procedure may appeal a disciplinary action (suspension, demotion, or reduction in base pay), layoff or discharge using the following **Step Two B Special Procedure**.

Such a grievance may be appealed directly from Step One to the University of Wisconsin Chancellor or the Chancellor’s designee within ten (10) calendar days from receipt of the answer in Step One. The Chancellor or 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.

**iii) 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 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 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 University Staff Council Grievance Committee 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. A written response by the full Board will be supplied to grievant and management within seven (7) calendar days of the Board of Regents meeting following the appeal. No further appeal shall be available to the parties.
VI. Retaliation

The University of Wisconsin System and the University of Wisconsin System - Platteville are prohibited from retaliating against a grievant, representative, witness, or potential witness in the grievance proceedings.

VII. Contact Information

For information about the operation of the grievance procedure or how to appeal an action, contact the University of Wisconsin – Platteville Director of Human Resources.

References

Wis. Stat. § 36.115 University Personnel Systems
Wis. Stat. § 36.05 Definitions
Wis. Stat. § 230
UW System Operational Policy GEN 14
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Wis. Stat. § 230
UW System Operational Policy GEN 14
INCIDENT (other than Dismissal)

File Grievance (Employee's Director or HR Director)

**Step One**
Grievance Heard
Written Decision Issued

(STOP here if grievance is concerning Working Conditions)

Choice of Step Two A or Two B only for those employed as classified staff prior to July 1, 2015. All others may only proceed to Step Two A.

**Step Two A**
Impartial Hearing Officer Hears Case; Chancellor Releases Statement

(STOP here if grievance related to layoff or discipline)

**Step Three**
Appeal to Board of Regents
(only dismissal case)

**Step Two B**
Chancellor or Designee Hears Grievance and Issues written Decision
(only for those employed as classified staff prior to July 1, 2015)

Appeal to WERC

Exhibit 2. University of Wisconsin—Platteville Grievance Procedure
POLICY: IMPARTIAL HEARING OFFICER SELECTION PROCESS PURSUANT TO THE UNIVERSITY STAFF GRIEVANCE POLICY AND PROCEDURES
AUTHOR: JOHN LOHMANN, INTERIM DIRECTOR OF HUMAN RESOURCES
ISSUE DATE: April 7, 2015
REVISED DATE:

I. PURPOSE:

The University of Wisconsin – Platteville University Staff Grievance Policy (Grievance Policy) establishes a dispute resolution process for university staff in accord with Wis. Stat. § 36.115(4) and with University Personnel System (UPS) Operational Policy: GEN 14. The Grievance Policy utilizes “impartial hearing officers”. This policy provides the procedures for the selection of these officers.

II. BACKGROUND:

The State of Wisconsin authorized and directed the University of Wisconsin System to develop two distinct new personnel systems: one for University of Wisconsin – Madison employees and one for all other UW System employee. Wis. Stat. § 36.115 (2) – (3). All system employees holding positions in the classified or unclassified service of the civil service system under Wis. Stat. Chapter 230 on June 30, 2015, are included in the personnel systems developed under subs. (2) – (3), effective July 1, 2015. The University of Wisconsin – Platteville, as of July 1, 2015, will operate under the University Personnel System (UPS). The University of Wisconsin – Platteville has established grievance procedures for university staff who were formerly members of the classified staff (subject to Wis. Stat. Chapter 230) as of June 30, 2015, and for university staff hired on or after July 1, 2015, who by the terms of their appointment, have an expectation of continued employment.

III. DEFINITIONS

1. “Impartial Hearing Officer”: a grievance review committee established through shared governance, a hearing officer selected by an approved selection process established through shared governance, an arbitrator employed by the Wisconsin Employment Relations Commission (WERC), arbitrator from the WERC roster of neutral decision-makers not employed by the WERC, or an arbitrator from a roster of arbitrators with a set fee developed by UW System Administration for the resolution of a discharge case.

2. “University staff”: members of the university workforce who contribute in a broad array of positions in support of The University of Wisconsin – Platteville’s mission and who are not exempt from the overtime provisions of the Fair Labor Standards Act (FLSA).
IV. **APPLICATION:**

This policy applies to the University of Wisconsin – Platteville university staff employees utilizing the Grievance Policy.

V. **PROCEDURE:**

1. Except where otherwise prohibited by the Grievance Policy, the employee filing the grievance shall be permitted to select one of the following options for their “Impartial Hearing Officer” (IHO):

   a. A panel consisting of five (5) university staff members selected randomly from a pool of volunteers recruited by the University Staff Senate;
   b. An arbitrator employed by the Wisconsin Employment Relations Commission (WERC) for those employed prior to July 1, 2015;
   c. An arbitrator from the WERC roster of neutral hearing officers not employed by WERC; or,
   d. In dismissal cases only, an arbitrator from the roster of neutral hearing officers maintained by UW-System.

2. University Staff Senate will request and compile a pool of the names of volunteers from the university staff to be available to sit on grievance panels.

   a. Human resources staff members are not eligible to sit on grievance panels.
   b. To be eligible to be included in the pool of volunteers and/or serve on a grievance panel, the university staff member must have successfully completed their initial probationary period.
   c. The individuals in the pool will serve a one-year term, with no more than three terms served consecutively.
   d. An individual may serve in the pool again after a one year hiatus. In the event of a conflict of interest or absence, another individual will be selected from the pool at random.
   e. The University Staff Senate or its designated committee will evaluate and approve the final IHO panel in a closed session. The IHO panel will serve just as an individual arbitrator would, with a majority vote determining the IHO panel’s conclusions.
   f. The human resources department and/or UW System legal will provide training to the members of the university staff senate and/or the university staff members who are to serve on a grievance panel.

VI. **RETALIATION**

UW System and UW-Platteville are prohibited from retaliating against a grievant, representative, witness, or potential witness in the grievance proceedings.
VII. CONTACT INFORMATION

For information about the operation of the grievance procedure or how to appeal an action, contact the University of Wisconsin – Platteville Director of Human Resources.

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Wis. Stat. § 36.115 University Personnel Systems
Wis. Stat. § 36.05 Definitions
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