



Personnel Department
County of La Crosse, Wisconsin
County Administrative Center • Room 2190
400 4th Street North • La Crosse, Wisconsin 54601-3200
(608) 785-9640 • FAX: (608) 789-4887

www.co.la-crosse.wi.us

WIS. ACT 32 GRIEVANCE POLICY AND PROCEDURE

PURPOSE: This policy and procedure is intended to comply with Wis. Stat. Sec 66.0509 (Act 32 – 2011)

GRIEVANCE PROCEDURE

This procedure applies to Employee discipline, Employee terminations and Employee complaints of Workplace safety of employees not covered by an existing Collective Bargaining agreement, unless a different process is specified by law. Any employee covered by an existing Collective Bargaining agreement shall use the grievance process specified in that document. In discipline cases involving unpaid suspension or termination, the employee shall have the right to representation by a person of the employee's choosing at the employee's expense at all stages of the grievance procedure, except that the employee's representative shall not be a material witness to the grievance matter.

DEFINITIONS

Employee – for discipline or termination means regular full or part time employees; but not temporary, irregular part time or seasonal employees, elected officials, or employees covered by a Collective Bargaining agreement. For Safety complaints, 'employee' includes any employee of La Crosse County.

Employee Discipline – written warning or unpaid suspension; but not including performance evaluation, work plans, verbal counseling, verbal warning, change of pay or benefits due to economic reasons, reassignment or change of duties, refusal to promote or reclassify.

Employee Termination – involuntary end of employment due to disciplinary reasons; not including layoff, resignation, end of position funding, reduction of hours or pay, for economic reasons. Exclusions given are illustrative only and not limiting or exclusive.

Workplace Safety – means a condition of employment directly affecting the complaining employee's health or personal safety. A violation of any applicable state or federal occupational safety or health standard, rule or regulation implicates workplace safety.

FILING A GRIEVANCE

The County Grievance Form must be completed and filed with the employee's Department Head and a copy to the County Personnel Department within ten (10) calendar days of the date of the occurrence giving rise to the grievance. Verbal notice is not acceptable. Failure to file a completed Grievance Form in a timely manner bars the grievance. Failure to file a timely appeal at any step of the Grievance Procedure bars an appeal and it shall be dismissed with prejudice.

GRIEVANCE PROCEDURE

STEP 1 – Upon receipt of the Grievance, the employee and the Department Head, and/or immediate supervisor shall attempt to reach a settlement within seven (7) calendar days. Appeal notice in writing must be given within seven (7) calendar days after meeting.

STEP 2 – If no settlement is reached, then the grievance may be appealed in writing to the Personnel Director. The Personnel Director shall meet with the grieving employee, department head, and/or immediate supervisor within ten (10) calendar days of appeal. They shall attempt to resolve the dispute. County shall give the employee a written decision within ten (10) calendar days after said meeting. Appeal notice in writing must be given within five (5) calendar days after receipt of decision.

STEP 3 – If no settlement is reached, then the grievance may be appealed in writing to an Impartial Hearing Officer (IHO) as follows: The County Administrator or designee shall provide the names of three (3) persons, not employees of La Crosse County, whom he determines are impartial, having no interest in the grievance. The grievant shall select one of the three (3) impartial persons to hear the grievance. A hearing will be scheduled as soon as possible with the IHO.



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IHO Hearing Procedure:

1. The IHO may issue subpoenas, and witnesses may be sworn.
2. The burden of proof required is preponderance of the evidence, which means the greater weight of the evidence.
 - the burden is on County in discipline or termination grievances to show reasonable just cause for the action taken. ~~Reasonable cause is shown by a rational basis for the action.~~
 - the burden is on Employee in workplace safety grievances to show a violation of applicable state or federal occupational safety and health standard, rule, or regulation implicating workplace safety showing a condition of employment directly affecting an employee's health and safety that requires correction.
3. Strict adherence to legal rules of evidence is not required. Evidence must be relevant, reliable and probative. The IHO will determine admissibility, credibility, and weight of evidence.
4. In discipline and termination cases, the IHO has authority to sustain or deny the grievance. The IHO may not change or modify any discipline imposed, unless sustaining the grievance means that the discipline must be modified. In work place safety cases, the IHO can recommend a corrective remedy.
5. The hearing may be recorded by court reporter or an audio/video device.
6. Post-hearing briefs may be requested and may be allowed or required by the IHO.

Decision: The IHO will make a decision within forty-five (45) calendar days after the hearing.

La Crosse County will assume responsibility for the costs of the IHO and court reporter, if any. But if the employee and County agree to use the Wisconsin Employment Relations Commission, the employee shall pay 50% of the WERC filing fee and the County the other 50%.

STEP 4 – County Board - If either the grievant or the County desires to appeal the decision of the IHO, the appealing party shall give written notice of appeal to the County Administrator within 20 calendar days of the date of the decision of the IHO or be barred from appeal. The appeal shall be to the La Crosse County Board.

The appeal shall be a review of the record only and not a de novo hearing of the case. The appellant at all times bears the burden of proof. The decision of the IHO enjoys a presumption of validity.

The Executive Committee of the County Board shall review the appeal record and make a recommendation to the County Board. Only the compiled record of the IHO hearing and exhibits admitted at the hearing shall be reviewed on appeal and no additional evidence shall be considered. The Executive Committee's and County Board's review is limited to:

- Whether the IHO kept within the IHO's jurisdiction
- Whether the IHO proceeded on a correct theory of law
- Whether the IHO's action was arbitrary or capricious and
- Whether the IHO's decision was supported by the preponderance of the evidence

The County Board on recommendation of the Executive Committee, may affirm (in whole or part), reverse (in whole or part) or modify the IHO's decision.

The County Board shall decide the matter by a majority vote of a quorum. This decision is final and non-appealable.