

CITY OF DE PERE	
Title: GRIEVANCE POLICY & PROCEDURE	Last revised: JANUARY 03, 2018

ADDENDUM G

GRIEVANCE POLICY AND PROCEDURE

PURPOSE

This policy is adopted pursuant to the requirements of Wis. Stat. § 66.0509(1m)(a) for purposes of providing a process for employee (see below for employee definition) grievance to be heard.

POLICY

This policy formalizes a grievance procedure to review of employee concerns. It is not intended to discourage discussion between employees and supervisors on an informal basis. Every reasonable effort should be made by supervisors and employees to resolve any questions, problems and/or misunderstandings that have arisen. Accordingly, employees should first discuss any complaints or questions they may have with their immediate supervisors, and are urged to initiate such discussions at the time the dissatisfaction or questions arises. Supervisors, in turn, should take positive and prompt action to answer employees' questions and resolve complaints presented to them.

I. DEFINITIONS

The following words shall be given the meaning as set forth below wherever such words appear within this policy:

Discipline: Any written reprimand, unpaid suspension, demotion, or other formal adverse disciplinary action, other than termination, issued against an employee by a supervisor. The term discipline does not include performance meetings or evaluations, implementation and evaluation of an employee, a performance improvement plan, informal discussions between a supervisor and employee, employee assignments or transfers, or any oral reprimand that is not memorialized in writing and placed in the employee's personnel file.

Employee: For purposes of a grievance of discipline and termination (as defined in this Grievance Procedure) means a regular full time or part-time employees who has completed one (1) year of continuous employment with the City. "Employee" does not include, without limitation, any of the following: other part-time employees, temporary employees, seasonal employees, limited term employees, contractors, or their respective employees, elected officials, or employees covered by the collective bargaining agreement containing a grievance procedure for discipline or termination. "Employee" for the purposes of Workplace Safety (as defined in this procedure) means any employee of the City.

CITY OF DE PERE	
Title: GRIEVANCE POLICY & PROCEDURE	Last revised: JANUARY 03, 2018

Grievance: A written complaint by an employee filed with the Human Resources Director that seeks review of the discipline, termination, or workplace safety of that employee.

Termination: Any involuntary termination of an employee's employment with the City, excluding such termination due to layoff, partial layoff, voluntary resignation, retirement, job abandonment (no call, no show), or termination due to the employee's lack of qualifications or other inability to perform the job.

Workplace Safety: Any conditions of employment affecting an employee's physical health or safety, the safe operation of workplace equipment and tools, safety of the physical work environment, personal protective equipment, workplace violence, and training related to the same.

II. GRIEVANCE PROCEDURE

- A. An earnest and deliberate effort shall be made to informally resolve the matter between grievant by meeting with his or her immediate supervisor and department head to discuss the subject of the grievance. If the matter is not resolved, then the employee shall reduce the grievance to writing and submit the grievance to his or her immediate supervisor within ten days after the facts upon which the grievance is known or should have been known to the employee. The grievance form can be found at the end of this policy. The immediate supervisor shall give a written answer within ten days of receipt of the grievance, with a copy to the Human Resources Director.
- B. If the grievance is not satisfactorily resolved at Step A and the grievant wishes to appeal the decision, the grievant may submit the grievance to the City Administrator within five days after having received the answer in the Step A. After receipt of the written grievance by the City Administrator, the City Administrator will meet with the grievant in an effort to resolve the issues raised by the grievance. Within ten days after the meeting, the City Administrator shall respond to the grievance in writing. The City Administrator shall also determine if the grievance is timely, if the subject matter of the grievance is within the scope of this policy, and otherwise properly processed as required by this policy. If the City Administrator is aware of other similar pending grievances, then the City Administrator may consolidate those matters and process them as one grievance.

This step shall be omitted and grievance moved from Step A to Step C in cases where a department head is the grievant and the grievance is initially filed with the City Administrator under Step A.

- C. The decision of the City Administrator shall be final unless the grievant files a written appeal requesting a hearing before an Impartial Hearing Officer (IHO) within five days of the City Administrator's response. The grievance will be referred to an IHO who will be designated by the City Attorney.

CITY OF DE PERE	
Title: GRIEVANCE POLICY & PROCEDURE	Last revised: JANUARY 03, 2018

The IHO will convene a hearing in the manner which the IHO determines necessary. The IHO shall have the authority to administer oaths, issue subpoenas at the request of the parties, and decide if a transcript is necessary. The IHO may require the parties to submit grievance documents and witness lists in advance of the hearing to expedite the hearing. The IHO shall make evidentiary rulings utilizing a relaxed standard of evidence and may accept hearsay evidence. The burden of proof shall be a preponderance of the evidence.

In all cases, the employee shall have the burden of proof. The IHO may request oral or written arguments and replies. The IHO shall provide the parties with a written decision.

The IHO may only consider the matter presented in the initial grievance filed by the employee. The IHO shall have no power to add to, subtract from, or modify the terms of the City policy or rule that forms the basis for the grievance.

After receiving the evidence and closing the hearing, the IHO shall issue a written response. The recommendation shall contain findings of fact, analysis and a recommendation. The IHO 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 IHO shall have the power to issue a response to the grievance. The IHO shall have no power to issue any remedy, but the IHO may recommend a remedy. Remedial authority shall be subject to the determination and approval of the City Administrator and shall be addressed by the governmental body in the event the grievance is sustained.

- D. Either party may appeal an adverse determination at Step C to the Common Council, by filing a written notice appealing the decision of the IHO in the City Administrator's office within five days of the decision of the IHO. The written request for review must clearly state the reasons why the decision of the IHO is not acceptable. New issues to the grievance not raised at Step A may not be considered by the Common Council. The Common Council shall, within 30 days after submission of the appeal, schedule a review of the IHO's decision. The review will be conducted by the Common Council during a closed session meeting unless an open session is requested by the employee. The Common Council may make its decision based on the written decision of the IHO or the Common Council may examine any records, evidence and testimony produced at the hearing before the IHO. A simple majority vote of the Common Council membership shall decide the appeal within 20 days following the last session scheduled for review. The Common Council will issue a final written decision which shall be binding on all parties.
- E. Each party shall bear its own costs for witnesses and all other out-of-pocket expenses, including possible attorney fees, in investigating, preparing or presenting a grievance. The costs and fees of the IHO will be borne by the City.

CITY OF DE PERE	
Title: GRIEVANCE POLICY & PROCEDURE	Last revised: JANUARY 03, 2018

Failure to process a grievance within the time limit, or agreed-upon extensions, shall constitute a waiver of the grievance and the grievance will be considered resolved on the basis of the City's or IHO's last answer. Failure of a management representative to meet the time limits shall cause the grievance to move automatically to the next step in the procedure. To encourage that grievances are addressed in a prompt manner, the time limits set by this policy are intended to be strictly observed and may not be extended except in extreme circumstances and then only upon the express written consent of the parties.

This procedure constitutes the exclusive process for the redress of any employee grievances as defined herein. However, nothing in this grievance procedure shall prevent any employee from addressing concerns regarding matters not subject to the grievance procedure with administration, and employees are encouraged to do so. Matters not subject to the grievance procedure that are raised by employees shall be considered by administration which has final authority, subject to any applicable City policy or directive, to resolve the matter.

III. PROCEDURE FOR WORKPLACE SAFETY GRIEVANCE

- A. Any employee personally involved in a workplace safety issue or incident must notify his or her supervisor of the issue or incident as soon as reasonably practicable. All safety issues, no matter how insignificant the situation may appear to be, must be reported.

Time Limit: Any workplace safety incident or issue must be reported by an employee within 24 hours after the incident or issue was raised in order to be addressed as part of the grievance procedure.

A written report of the incident or issue, outlining the events that transpired and resolution, if any, shall be created by the supervisor involved in the incident and signed by all concerned parties and submitted to the Employee Safety Committee for review and consideration within five days of the incident or issue.

- B. After receipt of the written report, the Employee Safety Committee will conduct an additional investigation, if required, and normally issue a final report on its findings and conclusions within ten days of meeting to review the written report. Copies of the report will be given to the grievant, the person(s) who signed the written report and to the City Administrator.
- C. The employee may appeal the findings and conclusions of the Employee Safety Committee and request the appointment of an IHO. The grievant shall have the burden of proof to show the decision of the Employee Safety Committee was arbitrary or capricious. The IHO may request oral or written arguments and replies. The IHO shall provide the parties with a written decision. The IHO may only consider the matter presented in the initial grievance filed by the employee. The IHO shall have no power to add to, subtract from or modify the terms of the City policy or rule that forms the basis for the grievance.

CITY OF DE PERE	
Title: GRIEVANCE POLICY & PROCEDURE	Last revised: JANUARY 03, 2018

Time Limit: If the employee does not submit a written grievance to the City Administrator requesting a hearing before an IHO within five days after receipt of the Employee Safety Committee Report, the grievance can no longer be addressed in the grievance procedure. If timely requested, the hearing will normally be scheduled within 30 days of receipt of the request for hearing. The IHO may require the parties to submit documents and witness lists in advance of the hearing in order to expedite the hearing. At the conclusion of the hearing, the IHO shall record one of three outcomes: (1) Sustaining the conclusions of the Employee Safety Committee, (2) Denying the conclusions of the Employee Safety Committee, or (3) Recommending additional investigation prior to a final determination.

- D. The City or employee may appeal the decision of the IHO to the Common Council. In cases where the IHO recommends an additional investigation, at the conclusion of the additional investigation, the matter will be automatically referred to the Common Council. The decision of the Common Council shall be final and binding upon the parties.

Time Limit: The employee may request a hearing before the Common Council by filing a request within five days of receipt of the written decision of the IHO. If not timely submitted, the grievance can no longer be addressed in the grievance procedure.

Each party shall bear its own costs for witnesses and all other out-of-pocket expenses, including possible attorney fees, in investigating, preparing or presenting a grievance. The costs and fees of the IHO will be borne by the City.

Failure to process a grievance within the time limit, or agreed-upon extensions, shall constitute a waiver of the grievance and the grievance will be considered resolved on the basis of the City's or IHO's last answer. Failure of a management representative to meet the time limits shall cause the grievance to move automatically to the next step in the procedure. To encourage that grievances are addressed in a prompt manner, the time limits set by this policy are intended to be strictly observed and may not be extended except in extreme circumstances and then only upon the express written consent of the parties.

This procedure constitutes the exclusive process for the redress of any employee grievances as defined herein. However, nothing in this grievance procedure shall prevent any employee from addressing concerns regarding matters not subject to the grievance procedure with administration, and employees are encouraged to do so. Matters not subject to the grievance procedure that are raised by employees shall be considered by administration which has final authority, subject to any applicable City policy or directive, to resolve the matter.

CITY OF DE PERE EMPLOYEE STATEMENT OF GRIEVANCE
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Employee-Grievant Information	
Name: _____	Phone No. _____
Address: _____	Hire Date: _____

Supervisor: _____	Work Location: _____

Statement of Grievance	
Date of Alleged Incident:	_____
Provide a clear and concise statement of the pertinent facts:	
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(attach additional statement if necessary)	

Statement of Grievance (continued)

Names and Contact Information of persons involved:

Steps taken to informally resolve the dispute and results:

Reasons why the actions of the supervisor should be overturned, if applicable, or desired remedy:

If alleging a workplace safety issue, identify the workplace rules allegedly violated, if applicable:

What solution do you seek to resolve your grievance?

Attach to this statement a copy of all documentation related to the grievance in your possession.

Date and Signature of Employee-Grievant