



COWR GRIEVANCE POLICY

Purpose:

This policy is intended to comply with Section 66.0509, Wisconsin Statutes, and provides a grievance procedure addressing issues concerning workplace safety, discipline and termination, covered by this grievance procedure. This policy applies to all employees covered under Section 66.0509, Wisconsin Statutes, other than police and fire employees subject to Section 62.13(5), Wisconsin Statutes. This discipline and grievance procedure does not create a legally binding contract or a contract of employment.

Policy:

This Grievance Procedure provides the employee with the individual opportunity to address concerns regarding workplace safety, employee discipline and termination matters covered by this Grievance Procedure, to have those matters reviewed by an Impartial Hearing Officer, and to appeal to the McMillan Library Board. The City of Wisconsin Rapids expects an employee and Supervisor / Department Head to exercise reasonable efforts to resolve any questions, problems or misunderstandings, prior to utilizing the Grievance Procedure. For purposes of this policy, the following definitions apply:

1. "Employee" shall not include employees subject to a collective bargaining agreement addressing employee discipline, termination and workplace safety, statutorily appointed individuals identified specifically in statute as serving at the pleasure of an appointing authority, seasonal employees, temporary or limited term employees, elected officials and independent contractors.
2. "Employee discipline" means an employment action that results in disciplinary suspension with or without pay, disciplinary termination, or disciplinary demotion, but does not include the following items:
 - Oral reprimands or warnings;
 - Written reprimands or warnings;
 - Performance evaluations or reviews;
 - Non-disciplinary wage, benefit or salary adjustments;
 - Placing an employee on a paid administrative leave pending an internal investigation;
 - Counseling's, meetings or other pre-disciplinary action;
 - Actions taken to address work performance, including use of a performance improvement plan or job targets;
 - Non-disciplinary demotion, transfer or change in job assignment or assignment location;
 - Documentations of employee acts or omissions;
 - Action taken pursuant to an ordinance created under Statute 19.59(1m).
3. "Employee termination" means separation from employment by the employer for misconduct or performance reasons, but shall not include the following personnel actions:
 - Voluntary quit or resignation;
 - Furlough;
 - Layoff or failure to be recalled from layoff at the expiration of the recall period;

- Job transfers or non-disciplinary demotions;
 - Job abandonment, “no-call, no-show”, or other failure to report to work;
 - Termination of employment due to medical condition, lack of qualification or license, or other inability to perform job duties;
 - Action taken pursuant to an ordinance created under s. 19.59 (1m);
 - Retirement;
 - End of employment and/or completion of assignment of temporary, seasonal; contract or part-time employees;
 - Death.
4. “Workplace safety” shall be narrowly construed and not construed to include basic conditions of employment unrelated to physical health and safety. “Workplace Safety” means conditions of employment related to the physical health and safety of employees, as long as such conditions are not enforceable under state or federal law, and includes safety of the physical work environment, the safe operation of workplace equipment and tools, provision of protective equipment, training and warning requirements, workplace violence and accident risk. “Workplace safety” does not include conditions of employment unrelated to physical health and safety matters, including, but not limited to, hours, overtime, sick, family, or medical leave, work schedules, breaks, termination, vacation, performance reviews, and compensation.

Procedure:

1. Employees should first discuss complaints or questions with their immediate supervisor. Every reasonable effort should be made by supervisors and employees to resolve any questions, problems or misunderstandings that have arisen before filing a grievance.
2. Written Grievance Submission: The employee must file a written grievance within ten (10) working days (Saturdays, Sundays, and holidays excluded) of the employee discipline, employee termination or actual or reasonable knowledge of the workplace safety issue. The grievance must be in writing and must be filed with the Department Head and with a copy to the Human Resources Director. The grievance shall contain a clear and concise statement of the pertinent facts, the dates the incidents occurred, the identities of the persons involved, documentation related to the grievance in possession of the grievant, the steps taken to informally resolve the dispute and the results of those discussions, all reasons why the actions of the supervisor should be overturned, if applicable, and the remedy that should be issued. A grievance alleging a workplace safety issue shall also identify the workplace rules allegedly violated if applicable. The Department Head or his/her designee will investigate the facts giving rise to the grievance and inform the employee of his/her decision, if possible, within ten (10) working days (Saturdays, Sundays and holidays excluded) of receipt of the grievance. In the event the grievance involves the Department Head, the employee may initially file the grievance with the Human Resources Director, who shall conduct an investigation.
3. Review by Human Resources Director: If the grievance is not settled, the employee may appeal the grievance to the Human Resources Director within ten (10) working days (Saturdays, Sundays and holidays excluded) of the receipt of the decision of the Department Head. The Human Resources Director or his/her designee will meet with the Grievant within ten (10) working days (Saturdays, Sundays and holidays excluded) of receipt of the written grievance to discuss voluntary resolutions of the grievance. If those discussions do not resolve the grievance, then the Human Resources Director will provide a written response to the grievance within ten (10)

working days (Saturdays, Sundays and holidays excluded) of the meeting. The written response shall contain a statement of the date the meeting between the Human Resources Director and the Grievant occurred, the decisions to sustain or deny the grievance, and the deadline for the Grievant to appeal the grievance to an Impartial Hearing Officer.

4. Impartial Hearing: The response of the Human Resources Director shall be final, unless the Grievant files a written appeal requesting a hearing before an Impartial Hearing Officer. The written appeal shall be filed with the Human Resources Director within five (5) working days (Saturdays, Sundays and holidays excluded) of the response. The City shall provide the Grievant with a list of names of persons who are available to serve as an Impartial Hearing Officer. The City and Grievant shall select a name from the list. If the parties cannot mutually agree on an Impartial Hearing Officer from the list, then the parties shall strike names from the list with the Grievant striking the first name. The remaining name shall be selected and assigned as the Impartial Hearing Officer. Any associated costs will be split between the City and the Grievant. The Impartial Hearing Officer shall not be a City employee.

Depending on the issue involved, the Impartial Hearing Officer will determine whether a hearing is necessary, or whether the case may be decided based on a submission of written documents. The City Administration, the Grievant and the Impartial Hearing Officer shall select a date for hearing or submission of written documents absent a hearing within 30 working days (Saturdays, Sundays and holidays excluded) from the date of the written appeal.

The Grievant shall have the right to representation during the grievance procedure at the Grievant's expense. The representative shall not be a material witness to the dispute.

The Impartial Hearing Officer shall conduct the proceedings and make a record of the proceedings. Following the issuance of the response, the record shall be provided to the Human Resources Director for preservation.

The Grievant shall bear the burden of production and burden of proof. The rules of evidence shall not be strictly followed, but no factual conclusions may be based solely on hearsay evidence.

After receiving the evidence and closing the hearing, the Impartial Hearing Officer shall issue a written decision within ten (10) working days (Saturdays, Sundays and holidays excluded) of the close of the hearing. The decision shall contain findings of fact, analysis and a recommendation. The Impartial Hearing Officer must answer the following question: Based on the preponderance of the evidence presented, has the Grievant proven the decision of the City Administration was arbitrary or capricious?

The Impartial Hearing Officer shall have the power to sustain or deny to the grievance. The Impartial Hearing Officer shall have no power to issue any remedy, but the Impartial Hearing Officer may recommend a remedy. Remedial authority shall be subject to the determination and approval of the McMillan Library Board and shall be addressed by the governmental body in the event the grievance is sustained.

5. Written Appeal: The non-prevailing party may file a written request for review by the McMillan Library Board within ten (10) working days (Saturdays, Sundays and holidays excluded) of the receipt of the written decision from the Impartial Hearing Officer. A written notice of appeal shall contain a statement explaining the reasons for the appeal and a copy of the grievance, City

Administration's response to the grievance and the Impartial Hearing Officer's decision. The written notice may not include information that was not presented at the Hearing. The request shall be filed with the Human Resources Director. Upon appeal of the decision of the Impartial Hearing Officer, a copy of the record shall be provided to the members of the McMillan Library Board.

6. **Review by Governing Body:** The McMillan Library Board shall make a decision regarding whether or not a meeting will be held within thirty (30) working days (Saturdays, Sundays and holidays excluded) of the appeal. The McMillan Library Board shall not take testimony or evidence; it may only determine whether the Impartial Hearing Officer reached an arbitrary or incorrect result based on a review of the record before the Hearing Officer. A decision by the governmental body will be made within sixty (60) working days (Saturdays, Sundays and holidays excluded) of the filing of the appeal unless the governmental body extends this timeframe. All decisions of the governing body involving the grievance shall be by simple majority vote and in writing and filed with the City Clerk of the governmental body within five (5) business days of the date of the final decision. A copy of the final decision shall be delivered to the Grievant and the Human Resources Director. McMillan Library Board's decision is final and is not subject to appeal.
7. **Limitations of the Scope of the Grievance Procedure:** The scope of a grievance that is subject to the jurisdiction of a governmental body or specific procedure by other Wisconsin Statutes shall be governed by those statutes and not the Grievance Procedure. The scope of a grievance that is subject to a grievance procedure in a collective bargaining agreement may not be brought forth under this policy. The scope of a grievance that is subject to other policy or ordinance for formal or informal investigation or dispute resolution procedures may not be brought forth under this policy.
8. **Importance of Timelines and Process:** A grievance will be processed pursuant to the established timelines. A Grievant may advance a grievance to the next step if a response is not provided within the designated timeframes. A Grievant may not file or advance a grievance outside of the designated timeframes. The Human Resources Director may advance a grievance to the next step, at the written request of either the Grievant or City Administration. The timelines may be modified by mutual agreement of the Grievant and City Administration. If the Grievant fails to meet the deadlines set forth above, the grievance will be considered resolved. If it is impossible for the City to comply with deadlines due to meeting notice requirements or meeting preparation, the grievance will be reviewed at the next possible meeting date.

Grievance meetings and hearings will typically be held during the Grievant's off-duty hours. Time spent in grievance meetings and hearings will not be considered a compensable work time.

Any grievance filed regarding workplace safety must relate to issues personal to the Grievant filing the grievance and may not relate to, without limitation by enumeration, safety of property or third parties. A grievance filed regarding workplace safety must be filed by the grievant claiming he or she has been personally affected by the alleged workplace safety violation.

Adopted by the McMillan Memorial Library Board of Trustees: April 2022.

For the purpose of policy interpretation, Mcmillan Memorial Library employees are considered both employees of the Library as well as employees of the City of Wisconsin Rapids. Policy wording may include either references to "City" employees or "Library" employees, both of which apply if approved by the McMillan Memorial Library Board.