

White River Flowage Lake Management District, Inc.

Town of Dakota, Waushara County, Wisconsin

Employee Grievance Procedure

Purpose: This grievance procedure is adopted pursuant to s. 66.05.09(1m), Wis. Stat., and is intended to provide a timely and orderly review of disputes regarding: a) employee terminations, b) employee discipline, and c) workplace safety.

Definitions for terms used in this document:

“Days”: means calendar days, excluding legal holidays as defined in s. 995.20, Wis. Stat.

“Discipline”: means any employment action that results in disciplinary suspension without pay, disciplinary reduction in pay or other benefits, disciplinary demotions and terminations. The term “discipline” does not include verbal notices or reminders, written reprimands, performance evaluations, documentation of employee acts and/or omissions in an employment file, non-disciplinary demotions, non-disciplinary adjustments to compensation or benefits, action taken to address job performance such as establishment of a performance improvement plan or job targets; placing an employee on paid leave pending an internal investigation; or other personnel actions taken by the employer for non-disciplinary reasons.

“Hearing Officer”: means the impartial hearing officer required pursuant to s. 66.05.09(1m)(d)2, Wis. Stat. The White River Flowage Lake Management District Board of Commissioners selects the hearing officer.

“Termination”: means a discharge from employment for rule violations, poor performance, acts detrimental to the employer or other acts of misconduct. The term “termination” does not include: a) a voluntary quit, b) completion of seasonal employment, c) completion of temporary assignment, d) completion of contract, layoff or failure to be recalled from layoff at the expiration of the recall period, e) retirement, f) job abandonment (“no call, no show” or failure to report to work), or g) termination of employment due to medical condition, lack of qualification or license, or any other cessation of employment not involving involuntary termination.

“Workplace Safety”: means any alleged violation of any standard established under state law or rule or federal law or regulation relating to workplace safety.

“WRFLMD”: means the White River Flowage Lake Management District, Inc.

“Board”: means the WRFLMD Board of Commissioners.

Process and Timelines:

1. The employee must file a written grievance with the Board Secretary within 10 days of the termination, discipline or actual or reasonable knowledge of the alleged workplace safety issue.

So that an earnest effort can be made to resolve the matter informally, the grievant must discuss the issue with the Board Chair prior to filing the written grievance. However, in the case of termination, such a meeting is not required. Grievance forms may be obtained from the Board Secretary.

2. The Board Chair shall meet with the grievant within 10 days of receipt of the written grievance. The Board Chair will provide the grievant with a written response within 10 days of the meeting. A copy of the Board Chair's response shall be filed with the Board Secretary.

3. The employee may request an appeal to the hearing officer by filing a written request with the Board Secretary within 10 days of receiving the written response. The Board Chair will schedule a hearing date after coordinating with the hearing officer and grievant to determine an agreeable hearing date.

4. The hearing officer shall provide the employee and the Board Chair with a written decision no later than 30 days after the hearing date. The hearing officer shall also provide the Board Secretary with a copy of the decision.

5. The non-prevailing party may file a written request with the Board Secretary for an appeal to the Board within 10 days of receipt of the hearing officer's decision. The Board shall decide the matter and issue a written decision within 45 days of the filing of the appeal. The Board may sustain, deny or modify the recommendation of the impartial hearing officer. The decision of the Board shall be final and binding. A copy of the Board's decision shall be provided to the employee.

6. All timelines may be extended by mutual written agreement of the Board and the employee. Without such agreement, a failure of the employee to adhere to any of the specified timelines shall preclude any further consideration of the grievance.

7. If the last day on which an event is to occur is a Saturday, Sunday or legal holiday, the time limit is extended to the next day which is not a Saturday, Sunday or legal holiday. A grievance or request for an appeal is considered timely if received by the Board Secretary during normal business hours or if postmarked by 11:59 p.m. on the due date.

8. If the grievance is not answered within the time limits, at any stage, the employee may proceed to the next available step within 7 days.

9. The grievant and the Board may mutually agree in writing to waive a step or multiple steps within the procedure.

10. Granting the requested or agreed upon remedy resolves the grievance.

Grievance Requirements:

The written grievance must contain:

1. A statement of the pertinent facts surrounding the nature of the grievance.

2. The date the incident occurred or the date the alleged workplace safety concern was discovered.
3. The steps taken to informally resolve the grievance, the individuals involved in the attempted resolution, and the results of such discussion.
4. The specific remedy requested; and
5. A description of the workplace safety rule alleged to have been violated, if applicable.

Board Chair's Response:

The Board Chair's written response to the employee's written grievance must contain:

1. A statement of the date the meeting with the employee was held.
2. A decision as to whether the grievance is sustained or denied.

Procedure Before the Hearing Officer: The hearing officer shall define the issues, identify areas of agreement, identify the issues in dispute and hear evidence and arguments. The hearing officer will determine whether the Board Chair acted in an arbitrary and capricious manner. A decision will not have been arbitrary or capricious if it was made in the best interest of the WRFLMD. In all cases, the grievant shall have the burden of proof to support the grievance. This process does not involve a hearing before a court of law; thus, the rules of evidence will not be strictly followed. However, no factual findings may be based solely on hearsay evidence.

The hearing officer may require the employee and Board Chair to submit materials related to the grievance and witness lists in advance of the hearing in order to expedite the hearing. The hearing officer shall sustain or deny the decision of the Board Chair. The hearing officer is not given authority to modify the decision made by the Board Chair. The hearing officer is not given authority to grant in whole or in part the specific request of the grievant. Within 30 days after the hearing the hearing officer will issue a decision in writing indicating the findings and reasons for the decision.

If the hearing officer's decision on any grievance is appealed, only the issues raised in the hearing may be appealed. Issues are not subject to modification in the appeal process.

Hearing Officer's Decision:

The hearing officer's written decision must contain:

1. A statement of pertinent facts surrounding the nature of the grievance.
2. A decision as to whether the grievance is sustained or denied, with the rationale for the decision.
3. A statement outlining the timeline to appeal to the Board.

Representation: Both the employee and the Board Chair may be assisted by a representative of their own choosing in person or by teleconference at any point during the grievance process.

Consolidation: The Board Chair and/or the hearing officer may consolidate grievances where a reasonable basis for consolidation exists.

If more than one employee is grieving the same issue or circumstance, a single grievance form may be used. A group grievance must be signed by all grieving employees and must indicate that it is a group grievance at the first step in the grievance process.

Costs: Any expense incurred by an employee in investigating, preparing or presenting a grievance shall be the sole responsibility of the employee. Each party (employee and Board Chair) shall bear its own costs for witnesses and all other out-of-pocket expenses, including possible attorney fees. The fees of the impartial hearing officer shall be divided equally with the employee(s) paying half and the Board paying the other half.