

VILLAGE OF RICHFIELD GRIEVANCE PROCEDURE

Pursuant to Wisconsin Statute 66.0509(1m), the Village of Richfield has established this Grievance Procedure for an employee to utilize for matters concerning employee discipline, employee termination, or workplace safety covered by this Grievance Procedure. This Procedure provides an employee with the individual opportunity to address concerns regarding employee discipline, employee termination or workplace safety matters, to have those matters reviewed by an Impartial Hearing Officer, and to appeal to the Village of Richfield Village Board.

An employee shall use the Grievance Procedure for resolving disputes regarding employee termination, employee discipline or workplace safety issues covered by this Procedure. The Village Board expect an employee and management to exercise reasonable efforts to resolve any questions, problems or misunderstandings prior to utilizing the Grievance Procedure. An employee subject to a contractual grievance procedure shall follow the contractual dispute or resolution procedures to the extent those procedures cover the matters covered by this Grievance Procedure. An employee subject to statutory dispute or resolution procedures shall be subject to those procedures to the extent those procedures cover the matters covered by this Grievance Procedure. This Grievance Procedure does not create a legally binding contract.

The Village of Richfield reserve all rights and this procedure does not create a contract of employment. Unless provided otherwise by statute, ordinance or contract, employees of the Village of Richfield are employed at-will and may resign with or without reason. The employee or employer may terminate the employment relationship at any time with or without reason and without violation of applicable law.

DEFINITIONS AND LIMITATIONS

“Termination” means a separation from employment by the employer for disciplinary or quality of performance reasons. “Termination” does not include layoff, furlough or reduction in workforce, job transfer, non-disciplinary demotion, reduction or position elimination based on failure to meet qualifications, resignation, abandonment, retirement, nonrenewal of contract, death, separation as a result of disability, action taken pursuant to an ordinance created under s. 19.59(1m), or the end or completion of temporary employment, seasonal employment, contract employment, or assignment.

“Employee discipline” means an employment action that results in disciplinary suspension, with or without pay, disciplinary termination, or disciplinary demotion. “Employee discipline” does not include counseling, oral reprimands or warnings, written reprimands or warnings, performance improvement plans, performance evaluations or reviews, documentation of employee acts or omissions, administrative leave or suspension with or without pay, non-disciplinary wage, benefit or salary adjustments, changes in assignment, action taken pursuant to an ordinance created under s. 19.59(1m), or other non-material employment actions.

“Employee” means municipal personnel identified in Section 66.0509, Wis. Stats., and 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, elected officials, personnel subject to rights under Section 62.13, Wis. Stat., and independent contractors.

“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.

Individual claim. Any Grievance filed regarding employee discipline, termination or 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 by the Grievant claiming he or she has been personally affected by the alleged violation.

Scope and Alternative Process. The scope of a Grievance that is subject to the jurisdiction of a governmental body or specific procedure by other state or federal laws shall be governed by those statutes or regulations and not this Grievance Procedure. The scope of a Grievance that is subject to a grievance procedure in a collective bargaining agreement or contractual dispute resolution process may not be brought forth under this Grievance Procedure. 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 Grievance Procedure.

TIMELINES AND GRIEVANCE FORMAT

Verbal Grievance and Dispute Resolution. Within fifteen (15) calendar days of the termination, employee discipline or actual or reasonable knowledge of the workplace safety issue and prior to filing a written Grievance, the Grievant must discuss the dispute with the supervisor who made the decision. The supervisor and employee must informally attempt to resolve the dispute. The supervisor shall notify the Village Administrator of this meeting and the results of the meeting.

Written Grievance Submission. If the employee wants to challenge his or her termination, employee discipline or workplace safety issue, then the employee must file a written Grievance within fifteen (15) calendar days of the termination, employee discipline or actual or reasonable knowledge of the workplace safety issue. The Grievance must be in writing and must be filed with the supervisor and with a copy to the Village Administrator. 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.

Administrative Response. The Administration, composed of management personnel within the discretion of the Village, shall meet with the Grievant within fifteen (15) calendar days of receipt of the written Grievance to discuss voluntary resolution of the Grievance. If those discussions do not resolve the Grievance, then the Administration will provide a written response to the Grievance within five (5) calendar days of the meeting. The written response shall contain a statement of the date the meeting between the Administration and the Grievant occurred, the decision to sustain or deny the Grievance, and the deadline for the Grievant to appeal the Grievance to an Impartial Hearing Officer.

Impartial Hearing. The decision of the Administration 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 Village Clerk and Administrator and within ten (10) calendar days of the Administrative Response. The

Impartial Hearing Officer shall file a written response within fifteen (15) calendar days of the close of the hearing.

Appeal for Review. The Administration or employee may file a written request for review by the Village Board within ten (10) calendar days of receipt of the Impartial Hearing Officer's written response.

Decision of the Village Board. The Village Board shall make a decision regarding whether or not a meeting will be held within thirty (30) calendar days of the appeal. A decision by the Village Board will be made within sixty (60) calendar days of the filing of the appeal unless the Village Board extends this timeframe.

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. If the Grievant fails to meet the timelines set forth this Procedure, then the grievance will be considered resolved. The Administration may advance a Grievance to the next step at the written request of either the Grievant or the Administration. The timelines may be modified by mutual agreement of the Grievant and Administration. The failure of the Grievant to follow the timelines and other requirements in this policy shall result in the Impartial Hearing Officer not having jurisdiction over this matter and shall terminate the Grievance Procedure for that Grievance. The Impartial Hearing Officer shall have the authority to determine whether the Impartial Hearing Officer has jurisdiction, which may be subject to review by the Village Board.

Scheduling. Grievance meetings and hearings will typically be held during the Grievant's off-duty hours. Time spent in Grievance meetings and hearings while off duty will not be considered as compensable work time for the grievant.

HEARING PROCEDURE

Selection of Hearing Officer. Following receipt of the appeal requesting a hearing before an Impartial Hearing Officer, the Administration shall provide the name of the person available to serve as an Impartial Hearing Officer. In the event the Administration provides a list of names, then the Administration 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.

Pre-Hearing Conference and Timelines. The Administration, Grievant and Impartial Hearing Officer shall conduct a pre-hearing conference and select a date for hearing not more than forty-five (45) calendar days from the date of the appeal. The Impartial Hearing Officer shall assign dates for preliminary matters that may arise prior to the hearing.

Conciliation. Prior to the Hearing, the parties and Impartial Hearing Officer may engage in conciliation meetings to resolve the dispute. In cases involving allegations of workplace safety, the conciliation meeting shall be mandatory and shall occur not more than ten calendar days after assignment to the Impartial Hearing Officer. The Impartial Hearing Officer's involvement in any conciliation process shall not disqualify the Impartial Hearing Officer from hearing the merits of any Grievance unless all parties agree to replacing the Impartial Hearing Officer.

Representation. The Grievant shall have the right to representation during the Grievance Procedure at the Grievant's expense. The representative must not be a material witness to the dispute.

Record of Proceedings. The Impartial Hearing Officer shall conduct the proceedings and make a record of the proceedings. Following the issuance of the written report, the record shall be provided to the Clerk of the Village of Richfield for preservation. The Impartial Hearing Officer may request oral or written arguments and replies.

Burdens. The Grievant shall bear the burden of production and burden of proof. The rules of evidence shall not be followed, but no factual conclusions may be based solely on hearsay evidence. Not less than ten days prior to the hearing, the Grievant and the Administration shall exchange lists of witnesses and documentary evidence that they intend to introduce at the proceedings.

Written Response. After receiving the evidence and closing the hearing, the Impartial Hearing Officer shall issue a written response. The report 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 Administration was arbitrary or capricious?

Powers of the Hearing Officer. The Impartial Hearing Officer shall have the power to issue a response 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 authorization of the Village Board, and shall be addressed by the Village Board in the event a recommendation for a remedy is made by the Impartial Hearing Officer.

APPEAL TO VILLAGE BOARD

Written Appeal. The written notice of appeal shall contain a statement explaining the reasons for the appeal and a copy of the Grievance, the Administration's response to the Grievance, and the Impartial Hearing Officer's report. The written notice may not include information that was not presented at the Hearing. The request shall be filed with the Village Board President and with a copy to the other party and to the Clerk.

Record of the Hearing. Upon appeal of the response of the Impartial Hearing Officer, a copy of the record shall be provided to the Village Board at its meeting to consider the appeal.

Review. The Village Board may decide, in each situation whether it will review the record and make a decision, assign an Impartial Hearing Officer to create a recommendation for the Village Board's review, or hold a new hearing and make an independent decision. The manner and process of review is the sole choice of the Village Board.

Additional Information. The Village Board may offer the Grievant and the Administration the opportunity to provide information to the Village Board in a meeting duly noticed for closed session or open session discussion. The Village Board may request written or oral arguments from each party.

Decision. All decisions of the Village Board involving the Grievance shall be by simple majority vote and in writing and filed with the Clerk within five days of the date of the final decision. A copy of the final decision shall be delivered to the Grievant and the Administration. The Village Board's decision is final and is not subject to appeal.