

## **Beloit Public Library Grievance Policy**

### **I. PURPOSE AND GENERAL POLICY**

The Beloit Public Library has established this Grievance Procedure to comply with Section 66.0509(1M), of the Wisconsin Statutes for an employee to utilize for matters concerning discipline, termination, or workplace safety covered by this Grievance Procedure. This Procedure provides an employee with the individual opportunity to address concerns regarding discipline, termination or workplace safety matters, to have those matters reviewed by Library Administration, an Impartial Hearing Officer, and finally, to appeal those decisions to the Library Board, if desired. The Beloit Public Library expects an employee and management to exercise reasonable efforts to resolve any questions, problems or misunderstandings prior to utilizing the Grievance Procedure.

The Beloit Public Library reserves all management rights, and this procedure does not create a contract of employment. Employees of the Beloit Public Library are employed at-will and may resign with or without reason. The Employer may terminate the employment relationship at will, at any time, for any reason or no reason, provided there is not violation of applicable federal, state, or local law.

### **II. LIMITATIONS OF THE SCOPE OF THIS GRIEVANCE PROCEDURE**

- a. The scope of a Grievance that is subject to the jurisdiction of the Library Board or specific procedure by other Wisconsin Statutes shall be governed by those statutes and not this Grievance Procedure.
- b. 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.
- c. 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 forward under this Policy.

### **III. TIMELINES AND GRIEVANCE FORMAT**

#### **a. Steps:**

- 1. Verbal Grievance and Dispute Resolution.** Within ten (10) calendar days of the termination, employee discipline or actual or reasonable knowledge of an alleged workplace safety issue and prior to filing a written Grievance, the Grievant must discuss the dispute with the supervisor who made the decision or is responsible for the alleged workplace safety issue. The supervisor and employee must informally attempt to resolve the dispute. The supervisor shall notify the Library Director of this meeting and the results of the meeting. If a resolution is reached during these discussions, the supervisor shall prepare a written memorandum of agreement to settle the Grievance.
- 2. Written Grievance Submission.** If the dispute is not resolved at Step 1, the employee must deliver a written Grievance within ten (10) 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, with a copy to the Library Director. The Grievance shall contain a clear and concise statement of the pertinent fact(s), 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.

- 3. Administrative Response.** The Administration, represented by the supervisor and the Library Director, shall meet with the Grievant within fifteen (15) calendar days of receipt of the written Grievance to discuss voluntary resolution of the Grievance. Following those discussions, the Library Director will provide a written response to the Grievance within ten (10) 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 (IHO).
- 4. Impartial Hearing.** The decision of the Library Director shall be final unless the Grievant files a written appeal requesting a hearing before an Impartial Hearing Officer. The written appeal shall be delivered to the Library Director within ten (10) calendar days of the Administrative Response. The Impartial Hearing Officer shall schedule a hearing at the earliest mutually convenient time and shall file a written report, including the Hearing Officer's findings and any recommendations for remediation, within twenty (20) calendar days following the close of the hearing unless the parties agree otherwise in writing or on the record.
- 5. Appeal to Library Board for Review.** The written finding of the Impartial Hearing Officer shall be final unless either party delivers to the Library Board President, with a copy to the Library Director, a written request for review by the Library Board within ten (10) calendar days of receipt of the Impartial Hearing Officer's written finding.
- 6. Decision of the Library Board.** The Library Board shall make a decision within thirty (30) calendar days of the appeal regarding whether or not a meeting will be held. A decision by the Library Board will be made within sixty (60) calendar days of the filing of the appeal unless the governmental body extends this timeframe.

**b. Importance of Timelines and Format:**

- 1. Timeliness.** A Grievance will be processed pursuant to the established timelines. If an employee fails to deliver the grievance in accordance with the designated timelines set forth in this Grievance Policy, the grievance will be considered resolved. A Grievant may advance a Grievance to the next step if a response is not provided within the designated timelines. A Grievant may not file or advance a Grievance outside of the designated timelines, in which event the grievance shall be deemed denied. 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 the 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.
- 2. Scheduling.** Grievance meetings and hearing will typically be held during the Grievant's off-duty hours to the extent possible. Time spent in Grievance meetings and hearings during off-duty hours will not be considered as compensable work time.
- 3. Individual Claim.** A Grievance filed regarding workplace safety must be filed by the Grievant claiming he/she has been personally affected by the alleged workplace safety violation.

**IV. HEARING PROCEDURE**

**a. Selection of Impartial Hearing Officer**

Following receipt of the appeal requesting a hearing before an Impartial Hearing Officer, the Library Director shall notify the Municipal Judge, who shall serve as the Impartial Hearing Officer, provided, however, that if the Municipal Judge shall have some prior knowledge or connection to the case, the grievant, or for some other reason wish to recuse himself, the Municipal Judge shall appoint another Municipal Judge with no such relationships or potential conflicts of interest to serve as the Hearing Officer.

**b. 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 unless otherwise agreed to in writing by the IHO and the parties. The Impartial Hearing Officer shall assign dates for preliminary matters that may arise prior to the hearing.

**c. 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 (10) 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 replace the Impartial Hearing Officer.

**d. Representation**

Each party to the Grievance shall have the right to representation during the Grievance Procedure at their own expense. Representatives shall not be material witnesses to the dispute and may not testify.

**e. Record of Proceedings**

The Impartial Hearing Officer shall conduct the proceedings and make an audio record of the proceedings for transcription as needed. Following the issuance of the finding, the audio record shall be provided to the Library Director for preservation.

**f. Burdens of Proof and Production**

The Grievant shall bear the burden of productions and burden of proof to a preponderance of the evidence. The rules of evidence shall not be strictly followed, but no factual conclusion may be based solely on hearsay evidence. All testimony taken shall be under oath. Not less than ten (10) calendar 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.

**g. The Response and Powers of the Impartial Hearing Officer**

After receiving the evidence and closing the hearing, the Impartial Hearing Officer shall issue a written finding. The Impartial Hearing Officer may request oral or written arguments and replies. The finding shall contain facts and analysis, and may contain 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?

The Impartial Hearing Officer shall have the power to sustain or deny the Grievance. The Impartial Hearing Officer shall not have power to issue any remedy, but the Impartial Hearing Officer may recommend a remedy. Remedial authority shall be subject to the review and approval of the Library Director.

**IV. APPEAL TO GOVERNMENTAL BODY**

**a. 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 finding. The written notice may not include information that was not presented at the Hearing. The request shall be filed with the President of the Library Board and a copy shall be given to the Library Director.

**b. Record of Hearing**

Upon appeal of the finding of the Impartial Hearing Officer, a copy of the record shall be provided to the members of the Library Board. The party appealing the decision shall have the responsibility to arrange for and be responsible for the cost of transcription of the audio recorded proceedings before the IHO.

**c. Review by Library Board**

The Library Board shall review the record and determine whether a rational basis exists for the Impartial Hearing Officer's decision. The findings of fact of the Impartial Hearing Officer shall not be overturned unless clearly erroneous. In the event the Library Board does not sustain the Impartial Hearing Officer's decision,

then the Library Board may hold a new hearing and render a new decision and remedy. The Library Board may go into closed session in accordance with Section 19.85 to discuss the matter prior to taking a vote in an open meeting session.

**d. Decision**

All decisions of the Library Board involving the Grievance shall be by simple majority roll call vote and in writing and filed with the Library Board Secretary. The Library Board Secretary shall deliver a copy of the minutes of the meeting with the written finding to the Grievant and the Administration.

**V. DEFINITIONS**

1. Termination - A separation from employment by the employer for reasons other than resignation, layoff, or reduction in force.
2. Employee Discipline – An employment action that results in disciplinary suspension without pay, disciplinary termination, disciplinary demotion, or disciplinary reduction in pay. Employee discipline does not include oral reprimands or warnings, written reprimands or warnings, administrative suspension with or without pay pending investigation of misconduct or nonperformance, performance improvement plans, performance evaluations or reviews, and documentation of employee acts or omissions.
3. Employee – All persons employed by the Beloit Public Library not covered under a collective bargaining agreement addressing employee discipline, termination and workplace safety, including full-time, part-time, seasonal, casual, and limited-term employees.
4. Workplace Safety – 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.
5. Administration – The next step in the chain of command, which would normally include, but not be limited to, the employee’s Department Head and the Library Director. The Administration shall be represented by the Library Director.

Approved September 21, 2011;Adopted October 1, 2011