



DEPARTMENT OF HEALTH SERVICES HUMAN RESOURCES POLICY & PROCEDURE

TITLE: 103 – APPEAL OF PERSONNEL ACTIONS

DATE ISSUED: DECEMBER 2, 2012

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103.01 INTRODUCTION

The Department of Health Services (DHS) Appeal of Personnel Actions policy applies to all permanent, project and probationary employees. It is intended to establish uniform procedures and standards for the appeal of personnel actions pursuant to sections [230.44](#), and [230.45](#), Wis. Stats.

103.02 APPEALABLE ACTIONS

An appeal is a written request for relief filed with the Wisconsin Employment Relations Commission (WERC) relating to one or more employment actions. Appealable actions include, but are not limited to the following:

- **Classification decisions** of the Director of OSER or those delegated to the Bureau of Human Resources (BHR) may be appealed. This type of appeal is subject to the filing fee. Delegated actions of BHR will not be reviewed by the Director of OSER.
- **Examination and certification actions** by the DMRS Administrator or those delegated to BHR may be appealed. This type of appeal is subject to the filing fee.
- **Actions by an appointing authority related to the hiring process** that are taken after certification of eligible candidates and are alleged to be illegal or an abuse of discretion may be appealed without a filing fee.
- **At Step 4 of the grievance procedure**, an employee with permanent status may appeal a demotion, layoff, suspension, reduction in pay, denial of 230.36, Wis. Stats. hazardous employment benefits or discharge by the appointing authority to the WERC without a filing fee if the employee alleges that the action was not based on just cause. **NOTE:** Grievances may not be appealed to the WERC without first completing the relevant preceding steps in the grievance procedure (see DHS Policy 503 - Grievances).

103.03 PROCEDURES

(1) Filing an Appeal

- (a) In general, an appeal must be filed in writing, by mail or in person, with the WERC within 30 calendar days after the effective date of the action or within 30 calendar days after the employee is notified of the action, whichever is later.

(b) Appeals disputing a Step 3 grievance decision of the employee grievance process must be filed within 30 calendar days after receipt of the decision or within 30 calendar days or after the last day on which OSER could have issued a timely decision, whichever is later.

(c) The appeal letter should identify:

1. The name, address, telephone number and e-mail address of the employee
2. The name, address, telephone number and e-mail address of employee's representative
3. The name of the state agency that took the action being appealed
4. The facts upon which the appeal is based
5. The reason(s) the appellant believes the action to be improper
6. The relief sought
7. A copy of any written decision being appealed.
8. Appeals must be addressed as follows:

Wisconsin Employment Relations Commission
PO Box 7870
Madison, WI 53707-7870

(2) Fees

Some appeals are subject to a \$50 fee to be paid at the time the appeal is filed. For more information on WERC appeals and their applicable fees, please visit their [website](#). The fee shall be paid by money order, certified check, cashier's check, or blank check made payable to the "State Treasurer of Wisconsin" and must be received at the WERC offices. Fees may not be paid in cash, by personal check, or in installments. Hardship exceptions may be made if the appellant's income is lower than the federal poverty level and where the appellant has cash resources totaling exactly or less than one month's rent and food for the appellant's family, or if similar circumstances exist which demonstrate that the appellant is unable to pay the filing fee without suffering severe financial hardship. If an appeal has more than one appellant, each appellant is required to pay the fee.

(3) Use of Paid Work Time

Employees shall be permitted a reasonable amount of time during normally scheduled work hours to prepare for appeals. Preparation includes interviewing potential witnesses, reviewing documents, or being interviewed as a potential witness. Time for such preparation (normally thirty minutes or less) may be granted following reasonable notice.

(4) Pre-Hearing/Hearing Scheduling

Upon receipt of an appeal, the WERC will schedule a pre-hearing conference with all parties at which time the specific issues will be defined and an attempt made to settle the case. If a settlement is not reached, a case hearing will be scheduled before a hearing examiner. The WERC shall affirm, reject or modify the action which is the subject of the appeal and shall issue a decision to all parties within 90 days after the hearing is completed. The decision or order may be appealed to the appropriate State Circuit Court by either party.

103.04 REFERENCES

[Chapter 230, Wis. Stats.](#)

[Chapter 430, Wisconsin Human Resources Handbook](#)

103.05 ADMINISTRATIVE INFORMATION

This policy was created on December 2, 2012 to establish a consistent and uniform Appeal of Personnel Actions policy across DHS. This policy supersedes all previous DHS Appeal of Personnel Action policies. Where it is in conflict with other departmental policies or procedures on appeal of personnel action, this policy shall govern.