



**DEPARTMENT OF HEALTH SERVICES
HUMAN RESOURCES POLICY & PROCEDURE**

TITLE: 503 – GRIEVANCES

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503.01 INTRODUCTION

The Department of Health Services (DHS) grievance policy applies to all permanent, project and probationary employees. It is intended to establish uniform procedures and standards for hearing employee grievances. LTE's are not covered by this policy and are ineligible to use the grievance procedure.

A grievance is a written complaint by an employee, or group of employees, which expresses concern or dissatisfaction relating to an employment-related condition which affects the employee's ability to perform assigned responsibilities satisfactorily and effectively and which seeks specific relief directly benefiting the grievant.

503.02 ROLES AND RESPONSIBILITIES

(1) Grievant

The grievant is responsible for filing the grievance at the appropriate steps and participating in the pre-file and/or grievance meeting(s). The grievance is "owned" by the employee and may not be filed or appealed to a higher step in the grievance process on his/her behalf. NOTE: Although the grievant is ultimately responsible for all communication and correspondence, his/her representative may advocate on his/her behalf at a grievance hearing.

(2) Grievant Representative

The grievant's representative assists the grievant in the preparation and presentation of the grievance. After an employee has filed a grievance, s/he may designate a representative in writing. This designation authorizes the representative to discuss specifics of the grievance with management.

503.03 PROCEDURES

Employees must meet the timelines established for filing grievances. The date the grievance is received and date stamped by the employer shall be used to determine whether the employee meets the timeliness requirement. Mitigating circumstances may be considered in determining timeliness, but only on rare occasions and in consultation with the Bureau of Human Resources (BHR) Employment Relations staff.

If discipline has been imposed and a grievance is filed, the employee/grievant may request in writing and receive factual investigatory evidence/documents which management used in determining the disciplinary action. For further detail, see DHS Policy 502 – Discipline.

Pre-File

The pre-file process is an informal discussion between the employee and his/her supervisor without the presence of an employee representative to resolve grievable issues, excluding discipline and misconduct. This discussion provides the supervisor and employee an opportunity to identify and talk about the matter in a mutual attempt to resolve the issue. Employees are encouraged to participate in the pre-file process. If the employee is not satisfied with the outcome, or does not participate in the pre-file process, s/he may file a formal grievance at the appropriate step of the grievance procedure listed below.

Note: If a supervisor is approached by an employee to use the pre-file process, the employee/supervisor have only 30 calendar days or less to attempt to resolve the issue before the employee would be required to file at Step 1. Step 1 grievances filed after the 30 calendar day requirement are typically denied for lack of timeliness.

Step 1

Employee files a grievance with the appointing authority

- (a) An employee submits a written grievance to the appointing authority or designee on form [OSER-DCLR-222 - Employee Grievance Report](#), within 30 calendar days from the date the employee first became aware of, or reasonably should have become aware of, the cause of the grievance. Only one subject matter may be covered in any one grievance. A statement of the specific management action being grieved (i.e. application of a work rule, written reprimand, condition of employment, etc.), facts upon which the grievance is based and relief sought must be entered on the form. The appointing authority or designee will contact the employee to schedule a grievance hearing. The management designee will meet with the employee and representative, if the employee designates one, to discuss the grievance and return a written decision on the form to the employee within 30 calendar days of receipt of the grievance. (Refer to Guidelines for Handling Grievances).
- (b) Management and the grievant may agree in writing to waive the Step 1 hearing with the approval of the BHR Employment Relations staff.

Step 2

Employee files a grievance with the Director, Bureau of Human Resources (BHR)

If the employee is not satisfied with the Step 1 decision, or if the appointing authority or designee fails to respond within the time limit, the employee may submit a written grievance to the Director, BHR (acting for the Department Secretary) on form [OSER-DCLR-222 - Employee Grievance Report](#), within 10 calendar days of receipt of, or deadline for receipt of, the Step 1 decision. Also, if a grievance is being initially filed at Step 2, the employee must submit the completed [OSER-DCLR-222 - Employee Grievance Report](#) form within 30 calendar days from the date the employee first became aware of, or reasonably should have become aware of, the cause of the grievance. A BHR Employment Relations Specialist will meet with the employee

and representative, if one is requested, to discuss the grievance and return a written decision on the form to the employee within 30 calendar days of receipt of the grievance.

Note: The Step 2 hearing cannot be waived.

Step 3

Employee files a grievance with the Office of State Employment Relations (OSER)

- (a) If the employee is not satisfied with the Step 2 decision, or if BHR fails to respond within the time limit, the employee may appeal to OSER within 10 calendar days of receipt of, or deadline for receipt of, the Step 2 decision. OSER will conduct a paper review of the grievance. The appeal material must:
 - Include the grievant's written appeal
 - Include a copy of the grievance, including any and all copies of the grievance responses
 - Be postmarked or date stamped by OSER within the time frames specified above
 - Not be filed electronically
- (b) If the grievance cannot be resolved, OSER will send a written notice to the employee within 30 calendar days of receipt of the grievance.

Note: A grievance which is not appealed to the next higher step within the specified time limit is considered to be settled on the basis of the last preceding answer from management.

Step 4

Employee appeals to the Wisconsin Employment Relations Commission (WERC)

- (a) If the employee is not satisfied with the Step 3 decision, the grievances involving the following issues may be appealed to the Wisconsin Employment Relations Commission:
 - demotion
 - layoff
 - suspension or discharge not based on just cause
 - denial of hazardous employment benefits under s. 230.36 Wis. Stats.
 - reduction in base pay
- (b) An appeal to the Commission must be filed within 30 calendar days after receipt of the Step 3 decision or within 30 calendar days after the last day on which management could have issued a timely decision, whichever is later. Copies of management responses at all earlier steps of the grievance procedure must be attached to a letter of appeal.
- (c) The Commission will schedule and hold a formal hearing of the grievance and the issues, make a determination and provide a written decision that is final and binding on both parties unless successfully appealed to the State Circuit Court.

503.04 GRIEVABLE/NON-GRIEVABLE ISSUES

(1) In general, employees may grieve the following issues beginning at these steps:

(a) Step 1

- Written reprimands, but only through Step 2 of the grievance procedure
- Abuse of discretion by the Employer in applying written agency rules, policies or procedures, but only through Step 2 of the grievance procedure

(b) Step 2

- Demotion
- Layoff
- Suspension (including letters in lieu of suspension).
- Discharge
- Reduction in base pay
- Denial of s. 230.36 hazardous employment benefits

Note: Project employees may not grieve discharge and employees on original probation may not grieve release from employment.

(2) An employee may NOT use the grievance procedure for the following:

- A personnel action or decision by the Director of OSER or the Administrator, Division of Merit Recruitment and Selection, OSER.
- An action delegated by OSER to the Secretary of the DHS (e.g., reclassification); or a personnel action after certification related to the hiring process.
- Personnel actions appealable under to the WERC under Sections 230.44(1)(d) and 230.44(1)(dm).
- Reassignment of a career executive employee under [Chapter ER-MRS 30.07\(1\), Wis. Adm. Code](#).
- The failure of a supervisor to process a reclassification request.
- Termination of LTE and project employees.
- Removal or release of probationary employees.
- Performance Evaluations.
- The content of written Department rules and policies (the application of rules and policies is grievable).
- A condition of employment which is a management right of the Department under s. ER 46.04, Wis. Adm.
- Any matter related to wages, hours of work and fringe benefits and other conditions of employment not expressly grievable under this policy.

503.05 USE OF PAID TIME BY EMPLOYEES AND THEIR REPRESENTATIVES

An employee filing a grievance at Step 1, Step 2 or Step 4 under the grievance procedure may have a representative to assist him/her in the process. A grievant and a representative, if one is requested, must be allowed a reasonable amount of paid work time (i.e. approximately 30 minutes) during the grievant's regularly scheduled work hours to investigate and prepare the grievance. Arrangements for any meetings involving an employee and a representative, if s/he is a DHS employee, should be coordinated between the grievant's and the representative's supervisors.

Note: Time spent preparing a grievance outside the grievant's regularly scheduled work hours and any travel expenses incurred, are the responsibility of the grievant or representative. Any other expense incurred by the grievant and representative in investigating, preparing and presenting a grievance, shall be sole responsibility of the grievant or representative.

503.06 RETALITION PROHIBITED

DHS managers and supervisors are prohibited from retaliating against a grievant, representative or witness who participates, or is scheduled to participate, in proceedings involved in the grievance process.

503.07 LIMITATIONS OF RELIEF GRANTED

DHS and the WERC may not grant relief that is retroactive beyond 30 days immediately preceding the filing of the grievance. DHS and the WERC may not award interest, attorney's fees or costs as relief granted.

503.08 REFERENCES

[Chapter 230, Wis. Stats.](#)
[Chapter ER 46, Wis. Adm. Code](#)
[Chapter 430, Wisconsin Human Resources Handbook](#)

503.09 ADMINISTRATIVE INFORMATION

This policy was created on December 2, 2012 to establish a consistent and uniform grievance policy across DHS. This policy supersedes all previous DHS grievance policies. Where it is in conflict with other departmental policies or procedures on grievances, this policy shall govern.

503.10 ATTACHMENTS

Guidelines for Handling Grievances