

## Impartial Hearing Officer

The University Staff Council shall be responsible for forming the hearing bodies required by the UW System and University of Wisconsin-Whitewater university staff personnel rules.

The impartial hearing officer is a grievance review committee established through shared governance, an arbitrator employed by the Wisconsin Employment Relations Commission (WERC), or an arbitrator from a roster developed by UW System Administration of arbitrators with a set fee for resolving a discharge case.

Individuals, as defined above, not employed by UW-Whitewater may have fees associated with their use.

This policy details membership and procedures established by the UW-Whitewater University Staff Council for the grievance review committee as established through shared governance, and the fees schedules associated with an arbitrator employed by the WERC, or an arbitrator from a roster developed by UW System Administration.

### 1. Membership

When it becomes necessary to form a review committee, the chair of the Council shall be responsible for forming a three-person review committee according to the following procedures:

- a. The University Staff Council shall establish a committee of no more than ten university staff employees, listed in random order, each year. The three members of the review committee shall be the first three employees on the list. Having served, the staff member's name will move to the bottom of the list. The chairperson of the review committee shall be chosen by the committee once formed.
- b. One administrative liaison, designated by the Chancellor, who serves as a non-partial, non-voting member.
- c. The chair of the Council shall not serve as a member of any review committee.
- d. No member of the Council shall serve simultaneously on more than one body hearing individual cases.
- e. The following are disqualified from service on a review committee: (1) any individual who participated in the initiation, formulation, investigation or filing of allegations or charges; (2) any individual who is a member of the concerned

university staff employee's department or equivalent; and (3) any individual who is a material witness.

- f. If, in the opinion of the chair of the Council (and with concurrence of the Chancellor), additional members are needed to serve on additional review committees, they will be randomly selected by the chair from university staff in at least their third year of service at University of Wisconsin-Whitewater.

## 2. Procedures

If a hearing is determined to be necessary, the committee shall operate consistent with the procedures in this section. Where appropriate, additional procedural requirements indicated in the other sections of these rules shall apply. Requirements guaranteeing due process and assuring procedural uniformity include the following:

- a. At the request of the chair of the committee and with concurrence of the Chancellor, the University shall provide legal counsel to a review committee. All parties shall be notified if legal counsel is to be provided.
- b. University staff employees shall be assured of a fair hearing, which will include the right to present testimony in one's own behalf, the right to offer witnesses, the right to cross-examine adverse witnesses, and the right to counsel or representation.
- c. The department or functional equivalent of the university staff employee concerned shall be consulted and have the opportunity to present evidence or testimony through the unit Director or other representative(s), as appropriate.
- d. By a majority vote a review committee may, on the motion of one of the university staff employees or the employer, or on its own initiative, disqualify any one of its members for cause. In such case, the chair of the Council shall designate a replacement unless, in their opinion, the disqualification should occur after a significant portion of the hearing already has taken place. The same replacement procedures shall be followed in the event a member of the body is not able to complete the assignment.
- e. Hearing shall be open or closed in accordance with the Wisconsin Open Meetings Law.
- f. Unless the review committee determines otherwise, the Employer shall initially have up to two hours to present its position at the hearing. The Employer, or the Employer's representative may present oral and/or written evidence, including the direct examination and cross-examination of witnesses.
- g. Unless the review committee determines otherwise, the employee shall initially have up to two hours to present its position at the hearing. The employee, or the

employee's representative may present oral and/or written evidence, including the direct examination and cross-examination of witnesses.

- h. A verbatim sound recording shall be made of all formal hearings. Upon written request, a copy of the recording shall be made available at no cost within a reasonable period of time to anyone involved in the hearing.
- i. The review committee shall have access to documentary evidence it believes to be pertinent, including public records and official documents specifically requested by the committee, and shall have the right to summon witnesses necessary to assure a fair hearing. HR&D and Media and Marketing Relations shall assist if needed.
- j. The review committee shall not be bound by common law or statutory rules of evidence; it may admit evidence having reasonable probative value, but shall exclude immaterial, irrelevant or unduly repetitious testimony, and shall allow the exercise of legal privileges. Members of the review committee who participate in discussion of the merits and decision-making shall be familiar with all testimony, all deliberations, and all evidence presented.
- k. Within 30 calendar days of the hearing, the review committee shall issue a written report that provides a brief statement of the pertinent facts and provides a rationale for the review committee's recommendation as to whether the grievance should be sustained or denied. The review committee's report and recommendation are advisory to the Chancellor.
- l. Within 20 calendar days of receipt of the review committee's report and recommendation, the Chancellor or Chancellor's designee shall release a decision in which he or she determines whether just cause existed.

### 3. Fee Schedule - WERC

- a. Information on appealing to the WERC may be found on their web page. [LINK](#). There are currently no filing fees for discipline cases filed under Sec. § 230.44(1)(c), Stats.; including appeals from demotion, layoff, suspension, discharge, reduction in base pay or reprimand in lieu of a suspension. Appellants must pay any additional fees as set by the WERC if applicable.

### 4. Fee Schedule - UW System

- a. Appeals to the UW-System roster of arbitrators have a set fee of \$800.00.
- b. Employees must pay a non-returnable filing fee of \$50.
- c. The arbitrator's fee obligation, for cases other than dismissal, shall be based on the ruling of the arbitrator, not on the Chancellor's decision (See 2.1.); and shall be as follows:

1. Should the grievant prevail, there will be no additional fee obligation from the grievant.
2. Should the employer prevail, the grievant shall be responsible for 25% of the remainder of the fee and the employer responsible for 75% of the remainder of the fee.
3. The balance of all fees must be paid within 30 days of the decision of the arbitrator, regardless of the Chancellor's final decision.