

DEPARTMENT OF MILITARY AFFAIRS
STATE HUMAN RESOURCES
PRACTICE AND PROCEDURE MANUAL

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PAGE: 1 of 3

SUBJECT: Grievance Procedures

SECTION: Employment Relations

I. Overview

The State of Wisconsin has a procedure for state employees in the Department of Military Affairs to file grievances. There are two types of grievances that can be filed; one for contesting an Adverse Employment Action and the other to grieve issues related to Conditions of Employment. The procedure is the same for each type of grievance in terms of timelines, forms used to file, and the number of steps, but have different requirements prior to filing a grievance. It is very important that employees carefully review this bulletin, and the references provided below, in preparation of filing a grievance. Employees are welcome to contact State Human Resources with questions when necessary.

II. Difference between the Two Types of Grievances

A. **Adverse Employment Actions**

State of Wisconsin Human Resources Handbook (WHRH) Chapter 430 is the authority and sole procedure for grieving the Adverse Employment Actions listed below. LTE's, project employees, and probationary employees are prohibited from filing grievances under these provisions. (Note: Employees who are not subject to one of the following five actions, but whom have an issue to grieve, should skip to Section III for procedures on grieving conditions of employment.)

1. Demotion
2. Layoff
3. Suspension (including letters in lieu of suspension)
4. Discharge
5. Reduction in base pay

Employees must complete and submit a [DOA-15802](#) (Adverse Employment Action and Condition of Employment Employee Grievance) form for this type of grievance.

Employees who are filing a grievance contesting an adverse employment action are encouraged to read WHRH Chapter 430 in full for additional policy and procedures on provisions such as: non-grievable actions, appeal instructions (which are also present on the grievance form), right of representation, and use of paid work time for preparing and presenting a grievance.

B. **Conditions of Employment**

State of Wisconsin Human Resources Handbook (WHRH) Chapter 430 is also the authority and sole procedure for grieving issues which affect a condition of employment, based on allegations of coercion, retaliation or abuse of discretion. It is recommended that employees carefully read

the following procedures and reference Chapter 430 in preparation of filing such a grievance. LTE's are prohibited from filing grievances under these provisions.

Employees must complete and submit a [DOA-15802](#) (Adverse Employment Action and Condition of Employment Employee Grievance) form for this type of grievance.

It is expected that employees will take any conditions of employment issues to their chain of command before filing an official grievance. Any grievances filed that the chain of command has not been given the chance to address will be held in abeyance until they have had that chance.

III. Grievance Steps, Timelines, and Employer Representatives

- A. Step 1. The grievance form must be filed at Step 1 with the DMA State Human Resources (SHR) Director no later than 14 calendar days from the date the employee first became aware, or should have become aware, of the matter grieved. This is a fillable form. Completed forms must be emailed to the State Human Resources Director at DMAStateComplaints@wisconsin.gov with a subject line of "Grievance". The email will serve as a "date stamp" for grievance submission.

The SHR Director shall meet with the grievant to hear the grievance and deliver a written decision within fourteen (14) calendar days of receipt of the grievance. Grievance responses will be delivered by email when possible.

- B. Step 2. The employee may appeal a Step 1 decision to the Department of Administration, Division of Personnel Management (DPM). Grievances filed to DPM must use the same grievance form from above and be filed within fourteen (14) calendar days from receipt of the Step 1 decision, or a timely decision could have been received. If filing electronically, the grievance must be sent to the DPM grievance mailbox: DOADPMGrievance@wisconsin.gov.

DPM will review the grievance and the written decision from step 1. DPM will issue a written decision no later than 30 days after the receipt.

- C. An employee may appeal a Step 2 decision to the Wisconsin Employment Relations Commission (WERC). Grievances to the WERC must be filed within 30 calendar days of receipt of the Step 2 decision or within 30 calendar days after the last day on which the employer could have served a timely decision. Chapters ERC 91 and 92, Wis. Adm. Code, identify the procedures for filing appeals of Step 3 decisions with the WERC. Further information on the filing process can be found at <http://werc.wi.gov/>.

- D. Timeliness. A grievance or decision is considered timely if received by 12:00 midnight on the due date.
1. The employer will reject any grievance or appeal not filed in accordance with the time limits.
 2. If a grievance is not answered by the employer at any step according to the time limits, the employee may proceed to the next step in the process.

- E. Waivers. The grievant and employer may mutually agree to waive certain provisions, as provided below. All mutual agreements must be done in writing with documentation saved by both parties.
 - 1. Time limits may be waived to accommodate conflicts in schedules. It is recommended that timelines are simply extended and new deadlines set so the grievance process is not delayed too long.
 - 2. The first step meeting may be conducted by telephone, videoconference, or by any other comparable means.

- F. Grievance representatives. The employee has a right to a representative of their choice during the grievance procedure, including during informal resolution efforts. The employee and representative, if a state employee, shall be allowed up to 30 minutes of time during normal work hours, without loss of pay for preparation and presentation of the grievance. This time will occur directly prior to the grievance hearing.