

## Chapter 13

### Complaint & Grievance Procedures

#### Section 1 Complaint Procedure for Issues other than Suspensions, Terminations, and Workplace Safety

- A. Purpose: It is the policy of the County to deal promptly and fairly with employee complaints. This complaint procedure is established to alert management to the reasons for employee complaints and to provide an effective means for resolving them. The procedure is as follows:

Step 1: An employee having a complaint may, within ten (10) calendar days of the event causing the complaint, discuss and attempt to resolve the matter with the supervisor. In the event of a complaint over a work assignment, the employee should perform the assigned task and then discuss the problem with the supervisor. Within ten (10) calendar days of receipt of the complaint, the supervisor shall meet with and transmit an answer to the employee.

Step 2: If the complaint is not settled by discussions with the supervisor, the employee may, within ten (10) calendar days of receipt of the supervisor's response, submit a written complaint to the department head who shall discuss it with the employee within ten (10) calendar days and attempt to settle the complaint with the employee and the supervisor. The department head shall, within ten (10) calendar days of the meeting, issue a written decision to the employee.

Step 3: If the complaint has not been resolved by discussion with the department head, the employee may, within ten (10) calendar days of receipt of the department head's reply, appeal in writing to the Employee Resources Director with a copy of the appeal sent to the department head. The Employee Resources Director shall, within fifteen (15) calendar days, meet with the employee and the department head and attempt to settle the complaint. The Employee Resources Director shall, within ten (10) calendar days of such meeting, issue a written decision to the employee.

Step 4: If the complaint has not been resolved by discussion with the Employee Resources Director, the employee may, within ten (10) calendar days of receipt of the Employee Resources Director's reply, appeal in writing to the Human Resources Committee with copies of the appeal to the Employee Resources Director and the department head. Within thirty (30) calendar days, the Human

Resources Committee shall meet with the employee, the Employee Resources Director and the department head and attempt to resolve the complaint. The Committee shall, within ten (10) calendar days of such meeting, issue a written decision which shall be final.

Section 2 Grievance Procedure for Employee Discipline, Terminations and Workplace Safety Issues.

- A. Purpose: Marathon County’s policy is to treat employees fairly and equitably and to provide employees with a fair means through which to seek local administrative redress for alleged violations, misinterpretations, or inequitable applications of Marathon County policies, rules, and expectations of conduct relative to employee discipline, termination, or workplace safety. This procedure provides all regular full and part-time employees with the individual opportunity to address concerns regarding discipline, termination, or workplace safety matters, to have those matters reviewed by an Impartial Hearing Officer, and to appeal to the Marathon County Board of Supervisors. An employee shall use the Grievance Procedure for resolving disputes regarding employee termination, employee discipline, or workplace safety issues covered by this procedure. Marathon County expects an employee and management to exercise reasonable efforts to resolve any questions, problems, or misunderstandings prior to utilizing the Grievance Procedure. The terms of this Policy shall control unless another valid and enforceable grievance procedure exists in a collective bargaining agreement or statutory dispute resolution procedure. Employees are to use the Employee Complaint Procedure for any other type of employment complaint. An employee has a right to use this Grievance Procedure without retaliation. This Grievance Procedure does not create a legally binding contract or limit or modify Marathon County’s “at – will” employment policy.
- B. Definitions: A grievance is defined as a dispute or misunderstanding regarding the actions of County officials with regard to the following:
1. Employee Termination: “Termination” includes an involuntary end to employment. Termination does not include a voluntary quit; a layoff or failure to be recalled from layoff at the expiration of any recall period; retirement; job abandonment such as “no-call, no-show,” or failure to report to work; any workforce reduction activities; job transfer; action taken for failure to meet the qualifications of a position; action taken pursuant to an ordinance other than an ordinance specifically addressing employee discharge; death; or the end of the employment of a temporary, contract, casual, or seasonal employee.

2. Employee discipline: “Discipline” includes suspensions with or without pay, disciplinary demotions, and disciplinary terminations. Discipline does not include oral and written warnings, changes in job duties, non-disciplinary wage, benefit or salary adjustments, performance evaluations, performance improvement plans, or counseling (verbal or written) regarding job performance.
3. Workplace safety: “Workplace safety” includes conditions of employment affecting an employee’s physical health or safety, the safe operation of workplace equipment and tools, environmental hazards, safety of physical work environment, personal protective equipment, and workplace violence

C. Preliminary Procedures:

1. Preliminary Grievance Steps:

Step 1: Prior to filing a written grievance, employees must discuss within ten (10) calendar days any problem or complaint with their Immediate Supervisor to determine if the grievance can be resolved.

Step 2: If the grievance cannot be resolved at Step 1, the employee must file a written grievance with the Department Head no later than ten (10) calendar days from the date the employee first becomes aware of the termination, discipline, or workplace safety condition causing the grievance. The written grievance shall include: (1) a summary of the facts pertaining to the grievance; (2) a listing of all parties involved; (3) the remedy sought by the employee; and (4) the employee’s signature. The Department Head shall meet with the employee and supervisor within ten (10) calendar days and then respond to the grievance in writing within ten (10) calendar days of the meeting.

Step 3: If the grievance cannot be resolved at Step 2, the employee may appeal a denial by filing a written appeal with the Employee Resources Director within ten (10) calendar days from the date of the Department Head’s decision. The Employee Resources Director shall respond to the grievance in writing within ten (10) calendar days of receipt of the written grievance.

2. Appeal to Human Resources Committee:

Step 4: If the grievance is not resolved at Step 3, the employee

may appeal the decision of the Employee Resources Director by filing a written appeal of the grievance with the Human Resources Committee within ten (10) calendar days from the Employee Resources Director's decision. The appeal should be sent to the Chairperson of the Human Resources Committee with a copy sent to the Employee Resources Director. The Human Resources Committee shall meet with the parties to discuss the matter as soon as practicable. Within ten (10) calendar days of the meeting, the Human Resources Committee shall issue a written decision sustaining or denying the grievance.

D. Impartial Hearing Officer Proceedings:

1. Appeal To Impartial Hearing Officer:

Step 5: If the grievance is not resolved at Step 4, the employee may appeal a denial by filing a written request for a hearing before an Impartial Hearing Officer. This request must be received by the Employee Resources Director no later than fourteen (14) calendar days after the employee receives the Human Resource Committee's written response.

On appeal, the Employee Resources Director shall transmit the grievance, all grievance responses, and this Grievance Procedure to the Hearing Officer. As soon as is practicable thereafter, the Impartial Hearing Officer shall schedule a date for a hearing. The hearing shall be held at a mutually agreeable time in a public building.

2. Hearing Procedure: The Impartial Hearing Officer shall have the authority to administer oaths and issue subpoenas at the request of the parties and shall be responsible for the fair and orderly conduct of the hearing and the preservation of the record. Any party requesting a subpoena from the Impartial Hearing Officer is responsible for the fees associated with the subpoena. All testimony shall be taken under oath. Each party is responsible for its own costs in proceeding to hearing. The Impartial Hearing Officer may only recommend overruling a disciplinary action if the action taken was arbitrary or capricious. The Impartial Hearing Officer may not change or modify any discipline imposed.

3. Impartial Hearing Officer Recommendation: The Impartial Hearing Officer shall submit their recommendation affirming or reversing the action with the reasons therefore in writing to the Human Resources Committee and the employee within thirty (30)

calendar days of the close of the hearing or the submission of the parties' written briefs, if any, whichever is later, or on a later date mutually agreed upon by the parties.

E. County Board Review:

1. Appeal to County Board:

Step 6: Within fourteen (14) calendar days of the date that the Hearing Officer's decision is mailed, either party may file with the County Board a written notice of appeal of the Impartial Hearing Officer's determination to the County Board. Any such appeal shall be on the written record, the preparation of which shall be the responsibility and at the cost of the party seeking the appeal. The appealing party shall supply a copy of the written record to the other party without charge. The written record shall be filed with the County Board within twenty (20) calendar days of the notice of appeal. No formal hearing shall be held before the County Board. The Board shall receive no further evidence on the matter but may request additional written submittals of the parties on matters which were raised before the Impartial Hearing Officer or, at its discretion, meet with the parties to review the matter. The County Board may retain outside counsel if necessary during the process.

2. County Board Decision:

Step 7: Within sixty (60) calendar days of the receipt of the written record, the County Board shall make and file its written decision with the Employee Resources Director. The Employee Resources Director or designee shall, within ten (10) calendar days, mail a copy of the decision to the last known address of the employee or the employee's representative and provide a copy of the decision to the Human Resources Committee. The Hearing Officer's determination may be affirmed, modified, or reversed by a majority vote of the County Board. The County Board's decision shall be final and binding on the parties. There shall be no subsequent right of appeal.

F. Impartial Hearing Officer Selection:

1. Qualifications/Selection: The County may contract with an Impartial Hearing Officer to hear and determine appeals at Step 5.

Following receipt of the appeal requesting a hearing before an Impartial Hearing Officer, the Employee Resources Director or

designee, shall attempt to find an Impartial Hearing Officer who is mutually agreeable to both parties. If the parties cannot mutually agree on an Impartial Hearing Officer, the Employee Resources Director shall provide the name of the individual who shall serve as an Impartial Hearing Officer.

2. Compensation: Marathon County will be responsible for the expenses of the Impartial Hearing Officer but any additional expenses will be the responsibility of the requesting party.
- G. Employee Representation: Employees may be accompanied by a representative of their choice at any level of the grievance procedure after the appeal to the department head provided the employee notifies the Employee Resources Director at least 24 hours ahead of the meeting that the representative will attend. The representative is allowed to help the employee present their grievance but no step in the procedure is a legal proceeding. Employees may opt to have the grievance proceedings occur in open or closed session as permitted by law. Employees may contact their representative to discuss their problem only during non- work time.
- H. Settlement of Grievance: A grievance shall be considered waived if not filed or appealed within the designated grievance timelines. Dissatisfaction is implied in recourse from one step to the next step. A grievance shall be deemed settled and dismissed at the completion of any step in the grievance procedure if all parties concerned are mutually satisfied or the grievance has not been timely processed to the next level. The parties can mutually agree to skip steps or extend timelines. All settlements shall be in writing and signed by the employee in question and the appropriate County official(s) involved at the step level that the grievance was settled.
- I. Revisions/Updating: This Policy may be revised, updated, or repealed as permitted by law.

### Section 3

Grievance Procedure for Complaints of Alleged Discrimination on the Basis of Disability: This procedure is intended to inform the public and employees of the process for filing complaints of discriminatory action on the basis of disability in the delivery of Marathon County Government services, programs, and activities, including employment.

Step 1: Person(s) who believe that they have been discriminated against by Marathon County on the basis of their disability shall within one hundred and eighty (180) calendar days of the event causing the complaint, provide a written summary of the issue which contains:

1. Complainant's name and address;

2. Name of department involved;
3. A summary of facts describing the alleged discrimination in detail (who, what, when, why, where, how);
4. Witnesses names (if any) and addresses and phone numbers;
5. Name(s) of victims of alleged discrimination;
5. Name, address and phone number of attorney/designee (if any);
6. Dated and signed by complainant.

The complaint shall be mailed or delivered to:

Marathon County Administrator's Office  
500 Forest Street  
Wausau WI 54403

Upon receipt, the County Administrator's Office shall designate and assign the appropriate department head to investigate the complaint. The designated department head shall review the complaint and meet with the complainant and/or the complainant's legal counsel or designee, and other witnesses as deemed necessary by the department head.

Within fifteen (15) calendar days of the date the complaint was received, the department head shall prepare an internal memorandum summarizing the matter, the investigation efforts and findings and forward it to the County Administrator. The County Administrator shall review the investigation and recommendation of the department head. The County Administrator shall issue a written determination stating what action should be taken to remedy the complaint. A copy of the County Administrator's determination shall be mailed to the complainant no later than thirty (30) calendar days after the receipt of the complaint.

If the County Administrator determines, after consultation with the Corporation Counsel, that s/he lacks the legal authority to implement a determination without approval of the County Board, the County Administrator shall immediately refer the determination to the Executive Committee for action and contemporaneously notify the complainant of said referral.

The Executive Committee shall add such matters referred to it by the County Administrator to the agenda of their next scheduled meeting. The Executive Committee shall review the complaint, the County Administrator's determination

and any other information deemed relevant by the Committee. A written explanation of action taken by the Executive Committee shall be mailed to the complainant within thirty (30) calendar days of the meeting held to review the County Administrator's determination.

Step 2: If the complainant is not satisfied with the response provided under Step 1, the complainant may be provided an opportunity for appeal to the Marathon County Human Resources Committee. Written notice of the desire for an appeal shall be provided to the Marathon County Clerk, Courthouse, 500 Forest Street, Wausau, WI 54403 within thirty (30) calendar days of the determination provided under Step 1.

The Human Resources Committee shall meet within thirty (30) days of receipt of the written appeal to review the evidence and consider any argument provided by the parties. A written determination of the Human Resources Committee shall be mailed to the complainant within thirty (30) calendar days of the hearing.

Complaints filed by current and past employees of Marathon County involving issues arising out of their County employment will not be subject to a Step 2 appeal.

Step 3: If the complainant is not satisfied with the response(s) provided under the grievance procedure, the complainant may pursue further action by filing a complaint with the Civil Rights Division of the U.S. Department of Justice, the Equal Employment Opportunity Commission, or with other appropriate federal agencies that provide financial assistance for the program or service in question. The County Administrator shall provide a list of appropriate designated agencies that may be requested by the Complainant.

Complaints under the Americans with Disabilities Act may be sent to:

US Department of Justice 950 Pennsylvania Avenue, NW Civil Rights Division Disability Rights Section – 1425 NYAV Washington, D.C. 20530	and/or	Equal Employment Opportunity Commission Milwaukee District Office 310 W Wisconsin Av, Ste 800 Milwaukee WI 53203-2292
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Complaints may also be sent to agencies that provide financial assistance to the program in question, such as the following agencies and functional areas:

1. Department of Agriculture: Farming and the raising of livestock, including Extension services.
2. Department of Education: Education systems and institutions (other than health-related schools), and libraries.

3. Department of Health and Human Services: Schools of medicine, dentistry, nursing, and other health-related schools; health care and social services providers and institutions, including "grass-roots" and community services organizations and programs; and preschool and day care programs.
4. Department of Housing and Urban Development: State and local public housing, and housing assistance and referral.
5. Department of Interior: Land and natural resources, including parks and recreation, water and waste management, environment protection, energy, historic and cultural preservation, and museums.
6. Department of Justice: Public safety, law enforcement, and the administration of justice, including courts and correctional institutions; commerce and industry, including banking and finance, consumer protection, and insurance; planning development, and regulation (unless otherwise assigned); state and local government support services; and all other government functions not assigned to other designated agencies.
7. Department of Labor: Labor and the work force.
8. Department of Transportation: Transportation, including highways, public transportation, traffic management (non-law enforcement), automobile licensing and inspection, and driver's licensing.