

CITY OF STEVENS POINT

PERSONNEL COMMITTEE AGENDA

Monday, November 9, 2015 – 7:00 p.m.

(or immediately following previously scheduled meeting)

Lincoln Center – 1519 Water Street

[A quorum of the City Council may attend this meeting]

1. Discussion only – relating to Administrative Policies 2.10 Grievance Procedures, 2.11 Discipline and 2.12 Employment Terminations.

Discussion and action on:

2. Amendment to Administrative Policy 2.06 - Promotions.
3. Request to move Transit Management employees and Airport employees to the Central States Health Plan effective 1/1/2016.
4. Adjourn into closed session (approximately 7:15 p.m.) pursuant to Wisconsin State Statute 19.85(1)(f)[considering medical histories of specific persons which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories] to consider two requests for a leave of absence without pay.
5. Reconvene into open session (approximately 10 minutes after adjourning into closed session) for action on the requests for leave of absence without pay.
6. Adjournment.

Any person who has special needs while attending this meeting or needs agenda materials for this meeting should contact the City Clerk as soon as possible to ensure a reasonable accommodation can be made. The City Clerk can be reached by telephone at (715) 346-1569, or by mail at 1515 Strongs Avenue, Stevens Point, WI 54481.

Copies of ordinances, resolutions, reports and minutes of the committee meetings are on file at the office of the City Clerk for inspection during normal business hours from 7:30 a.m. to 4:00 p.m.

November 4, 2015

MEMORANDUM

TO: Personnel Committee

FROM: Lisa Jakusz, City Personnel

RE: November 9, 2015 Personnel Committee Meeting

1. Documents for item #1 will be sent out separately.
2. This item was discussed in part previously. The Police and Fire Commission had asked that we pull the portion that discusses promotion as it would relate to their employees. Since that time, the Comptroller Treasurer has discussed the matter with the Commission President, Gary Wescott. The language modifications were drafted as a result of that conversation.
3. This item was discussed last month for the Utility Management employees. Director Lemke is broadening his request to include the management employees in Transit and at the Airport. There are some concerns over creating an issue in Transit (the union employees are on a City self-funded health plan) of employees being promoted out of the bargaining unit having a different plan and therefore, facing the potential of having two deductibles in one year.
4. A separate envelope relating to this request is enclosed in your packet. A copy of the City's policy relating to leave of absence is enclosed.

Please feel free to contact me with any questions or concerns relating to the items on the agenda and the associated attachments.

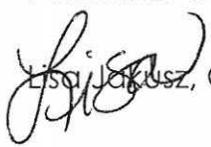
City of Stevens Point
1515 Strongs Avenue
Stevens Point, WI 54481-3594
FAX 715-346-1498



Mayor
**Department of
Administrative Services**
715-346-1594

November 6, 2015

MEMORANDUM

TO: Personnel Committee / City Council
FROM:  Lisa Jakusz, City Personnel
RE: Personnel Committee Agenda Item #1

Enclosed you will find copies of Administrative Policy 2.10, 2.11 and 2.12 as they exist today; a copy of the standard Mayor Wiza had suggested implementing and Administrative Policy 2.10 and 2.11 with some amendments drafted by the City Attorney.

This is for the discussion item for Monday's meeting.

**** CITY OF STEVENS POINT ****
ADMINISTRATIVE POLICY

Policy Title: Grievance Procedures

Policy No. 2.10

Date of Issuance: December 18, 1989

Revision Date: September 19, 2011, January 21, 2013, May 19, 2014, March 16, 2015

1. Purpose

The purpose of this Policy is to set forth the procedure to be followed with respect to grievances by employees, union, and non-union, including department heads. The terms of this Policy shall control unless another valid and enforceable grievance procedure exists in a collective bargaining agreement that applies to the matter.

This policy is intended to comply with Section 66.0509, Wis. Stats., and provides a grievance procedure addressing issues concerning workplace safety, discipline and termination. This policy applies to all employees covered under Section 66.0509, Wis. Stats., other than police and fire employees subject to Section 62.13(5), Wis. Stats. An employee may appeal any level of discipline under this grievance procedure. Nothing in this policy is intended to create a legally binding contract. The City of Stevens Point reserves its management rights to exclusively manage its operations in the best interest of the taxpayers of the City.

2. Definitions

A grievance is defined as a dispute or misunderstanding regarding the actions of City officials with regard to the following:

- Employee termination

“Termination” includes an involuntary end to employment but excludes 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; death; or the end of the employment of a temporary, contract or part-time employee.

- Employee discipline

“Discipline” includes verbal reprimands; written reprimands; and suspensions without pay.

Discipline does not include action taken because of poor job performance, performance evaluations, performance improvement plans, or counseling (verbal or written) regarding job performance.

- 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.

3. Preliminary Procedures

A. Preliminary Grievance Steps

Step 1: Prior to filing a written grievance, employees should discuss any problem or complaint with his/her Immediate Supervisor to determine if the grievance can be resolved. For department heads as appointed under the Revised Municipal Code 3.08, the Immediate Supervisor for Step 1 grievances is the Mayor.

Step 2: If the grievance cannot be resolved at Step 1, the employee must file a written grievance with the City Human Resource Manager 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 and issue involved; (2) the date(s) the event(s) giving rise to when the grievance occurred; (3) a listing of all parties involved; (4) the remedy sought by the employee; and (5) the employee’s signature and date. The City Human Resource Manager shall respond to the grievance in writing within ten (10) calendar days of receipt of the written grievance.

B. Appeal to Personnel Committee

Step 3: If the grievance is not resolved at Step 2, the employee may appeal a denial by filing a written appeal of the grievance with the Personnel Committee within ten (10) calendar days from receipt of the City Human Resource Manager’s decision. The Personnel Committee shall meet with the parties to discuss the matter. Within ten (10) calendar days of the meeting, the Personnel Committee shall issue a written decision sustaining or denying the grievance.

4. Hearing Officer Proceedings

A. Appeal to Hearing Officer

Step 4: If the grievance is not resolved at Step 3, the employee may appeal a denial

by filing a written request for a hearing before a Hearing Officer. This request must be received by the Personnel Committee no later than ten (10) calendar days after the employee receives the Personnel Committee's written response.

On appeal, the Personnel Committee shall transmit the grievance, all grievance responses, and this Grievance Procedure to the Hearing Officer. As soon as is practicable thereafter, the Hearing Officer shall schedule a date for a hearing. The hearing shall be held at a mutually agreeable time in a public building and shall be open to the public unless the Hearing Officer otherwise directs.

B. Hearing Procedure

The 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. The hearing shall be conducted in accord with the hearing procedures of the American Arbitration Association. Any party requesting a subpoena from the Hearing Officer is responsible for the fees associated with the subpoena. All testimony shall be taken under oath and shall be recorded by a court reporter under the supervision and control of the Hearing Officer, unless another method of recording is mutually agreed to by the parties and approved by the Hearing Officer. All costs associated with the court reporter and preparation of a transcript of the hearing shall be evenly split between the parties. In all cases, the grievant shall have the burden of proof to support the grievance. The Hearing Officer may only overrule a disciplinary action if the action taken was arbitrary or capricious.

C. Hearing Officer Decision

The Hearing Officer shall submit his or her decision affirming or reversing the action with the reasons therefore in writing to the Personnel 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.

5. City Council Review

A. Appeal to City Council

Step 5: Within fourteen (14) calendar days of the date that the Hearing Officer's decision is mailed, either party may file with the City Council a written notice of appeal of the Hearing Officer's determination to the City Council. 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 City Council within twenty (20) calendar days

of the notice of appeal. No formal hearing shall be held before the City Council. The Council shall receive no further evidence on the matter but may request additional written submittals of the parties on matters which were raised before the Hearing Officer or, at its discretion, meet with the parties to review the matter. The City Council may retain outside counsel if necessary during the process.

B. City Council Decision

Step 6: Within forty (40) calendar days of the receipt of the written record, the City Council shall make and file its written decision with the Clerk's office. The Clerk or designee shall, within five (5) 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 Personnel Committee. The Hearing Officer's determination may be affirmed, modified, or reversed by a majority vote of the City Council. The City Council's decision shall be final and binding on the parties. There shall be no subsequent right of appeal.

6. Hearing Officer Selection

A. Qualifications/Selection

The City may contract with a Hearing Officer to hear and determine appeals at Step 4. Any Hearing Officer so engaged shall not be a City employee or receiving any compensation or benefits from the City other than those described below.

The City Clerk or designee shall create a panel of at least three (3) individuals when needed who have indicated a willingness to serve in the capacity of Hearing Officer and who are experienced in personnel matters and/or who are active or retired attorneys, retired members of the judiciary, retired administrative staff, or currently on the list of arbitrators or mediators for the Wisconsin Employment Relations Commission. The City Clerk shall draw three (3) names and list them in order of drawing with the first drawn name being appointed as the Hearing Officer. In the event a Hearing Officer is unable to accept the designation as Hearing Officer, the next numeric selection by the Clerk shall be appointed.

B. Compensation

The Hearing Officer shall be compensated at the Hearing Officer's regular rate for the hearing, travel time, and time spent preparing a written decision. The compensation for the Hearing Officer will be split evenly between the parties.

C. Conduct of Hearing

1) Generally. The Hearing Officer is not bound by the strict rules of

procedure and the customary practices of courts of law.

- 2) Opening Statements. Opening statements are optional and shall be confined to a brief summary of the nature of the case, the evidence intended to be offered, and the controlling legal authorities.
- 3) Order of Proceeding. The grievant shall present evidence first.
- 4) Evidence. The Hearing Officer is not bound by common law or statutory rules of evidence. All testimony having reasonable probative value shall be admitted, and immaterial, irrelevant or unduly repetitious testimony shall be excluded. The Hearing Officer shall give effect to the rules of privilege recognized by law. Hearsay evidence may be admitted into the record at the discretion of the Hearing Officer and accorded such weight as the Hearing Officer or commission deems warranted by the circumstances.
- 5) Testimony of Witnesses. (a) Witnesses may testify by answering questions posed to them. (b) Cross-examination is not limited to matters to which the witness testified on direct examination. (c) At the discretion of the Hearing Officer, witnesses' testimony may be taken via telephone rather than in person. (d) At the request of either party, the Hearing Officer may order the exclusion of the witnesses in accordance with the provisions of s. 906.15, Stats.
- 6) Stipulations. Parties may stipulate to some or all of the facts that are material to a case and the Hearing Officer may base an order upon the stipulation.
- 7) Sanctions.
 - (a) Unless good cause can be shown, any party who fails to appear at a hearing after due notice is deemed to have admitted the accuracy of evidence adduced by the parties present and the Hearing Officer may rely on the record as made. If the absent party has the burden of proof, the Hearing Officer shall consider a motion to dismiss by the parties present without requiring presentation of any evidence.
 - (b) If a witness fails to appear despite the issuance of a subpoena, the Hearing Officer may seek initiation of contempt proceedings.
 - (c) If a witness refuses to answer a proper question or otherwise engages in misconduct, the Hearing Officer may exclude the witness, may strike all or part of the witness' testimony, may make an appropriate inference or may impose any combination of sanctions under this paragraph.

(d) The Hearing Officer may exclude persons other than witnesses from the hearing for misconduct.

7. 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. All settlements shall be in writing and signed by the employee in question and the appropriate City official(s) involved at the step level that the grievance was settled.

8. Revisions/Updating

This Policy may be amended or repealed by the City Council at any time.

**** ADMINISTRATIVE POLICIES ****
CITY OF STEVENS POINT

Policy Title: Discipline Procedures

Policy No. 2.11

Date of Issuance: December 18, 1989

Revision Date: May 21, 1990, January 21, 2013, March 16, 2015

Introduction: This policy defines the procedure to be followed if an employee's performance or behavior falls below an acceptable level. Discipline is used when other methods of correcting the problem (performance appraisal, coaching, training, or counseling) have not been successful, or when the offense is considered serious. It applies to both management and union employees, as well as department heads.

This policy does not apply to a new employee during his/her evaluation period.

Sometimes employees have personal problems which affect their behavior or job performance. When these problems occur, the supervisor should refer the employee to the City's Employee Assistance Program (EAP) for help. For more information on the EAP program, the employee may refer to Policy No. 3.04 or contact his/her area's Resource Coordinator.

NOTE: For discipline actions against Department Heads as identified in Revised Municipal Code 3.08, the "supervisor", "Division Head", or "Department Head" as those terms are used in this Policy shall be the Mayor.

1. Policy

- A. Disciplinary action will be taken against an employee when deemed appropriate. This could occur because of a violation of a policy, poor performance or other action considered inappropriate. Refer to Policy No. 1.04 on Personal Conduct for a list of activities considered to be inappropriate. This is not an all-inclusive list.
- B. The City normally adheres to a policy of progressive discipline where the penalty become more severe with each additional inappropriate action or as a result of progressively declining performance. The steps involved in progressive discipline are described in further detail within this policy. In most cases, progressive discipline will be the appropriate means for correcting a problem.
- C. A "just cause" standard is not required to be met in the issuance or review of disciplinary action, but disciplinary action taken should be reasonable or

appropriate and not arbitrary and capricious, given the circumstances associated with the discipline.

- D. Some actions are so severe and damaging to the City or its employees that a supervisor may feel it is warranted to override the normal progressive discipline process and immediately proceed to a higher level of corrective action. If a supervisor feels more severe action is warranted, it is recommended that he/she discuss the case with his/her supervisor, the City Attorney, and/or the Personnel Office prior to administering the disciplinary measure.
- E. An employee has the right to representation at all steps of discipline; however, he/she may waive that right if they wish.

2. Progressive Discipline

A. Verbal Warnings

A verbal warning is given for a less serious offense or performance problem. A verbal warning is a discussion with the employee of the specifics of the problem, including what performance or behavior is expected in the future. The supervisor should make a note of the warning and see that a copy is given to the Personnel Office for placement in the personnel file. The note should clearly indicate this is a verbal warning and should include the employees name, the date, time, place, and reason for the warning.

NOTE: As in all steps of progressive discipline, formal documentation is extremely important. Documentation is used to establish a pattern of behavior upon which to proceed to a higher level of discipline.

B. Written Reprimands

- (1) A written reprimand is issued when verbal warnings prove unsuccessful or when an employee's behavior or conduct requires something more serious than a verbal warning.
- (2) A written reprimand should include the following information:
 - (a) A description of the specific problem or offense and when it occurred.
 - (b) What actions and/or previous disciplinary measures have been taken to correct the problem?

- (c) What behavior or performance expectations must be met in order to correct the problem?
 - (d) A warning that further unsatisfactory behavior or performance may result in additional discipline, up to and including dismissal.
 - (e) A notation that a copy has been placed in the employee's permanent personnel file. NOTE: If the employee is represented by a union, a copy of the reprimand should be forwarded to the union steward.
- (3) The Division Head or Department Head will review and sign the reprimand to ensure that it is consistent, fair and proper. The supervisor should then formally discuss the reprimand with the employee. Both the supervisor and employee should sign the reprimand to indicate it has been discussed and reviewed. The employee may attach a brief written comment to the reprimand if he/she chooses. A copy of the reprimand (including any attachments) should be kept by the supervisor and the employee. The original document should be sent to the Human Resource Manager for placement in the personnel file.

C. Suspensions

- (1) If an employee receives a written reprimand and engages in similar conduct within a period of twelve months, or engages in serious misconduct, he/she will be suspended without pay for a minimum of one day. Notice of the suspension (including the dates) should be given in a written document. NOTE: It is recommended that three (3) day suspensions do not begin on Monday nor end on Friday.
- (2) In certain instances a supervisor may feel it necessary to remove an employee from the work environment pending further investigation of the details surrounding a suspected violation. In cases such as this, the employee will be given an indefinite suspension (leave) immediately without pay until an investigation has been made and the action to be taken determined. Should the investigation reveal no violation or negligence existed on the part of the suspended employee, he/she will be immediately reinstated with full back pay. Should the investigation reveal circumstances requiring disciplinary action, the supervisor may opt to reinstate the employee with full, partial, or no back pay depending upon the seriousness of the offense. The supervisor may also determine that certain actions warrant additional suspension or termination.

D. Termination

- (1) An employee may be subject to termination based on his/her conduct, or based on conduct and prior instances of conduct.

- (2) Letter of Intent

The supervisor must issue a letter explaining his/her intent to terminate employment. This letter of intent must have the signed approval of the department head and City Attorney. A copy of the letter must be placed in the employee's permanent personnel file. The letter must:

- (a) Explain the reason(s) for the termination and detail specific dates and times, if appropriate.
- (b) Make clear the fiscal conditions of the termination including the last day for which the employee will receive pay and the amount of accrued annual leave to be paid.
- (c) Inform the employee of his/her rights under the Grievance Procedure described in Policy 2.10.

**** CITY OF STEVENS POINT ****
ADMINISTRATIVE POLICY

Policy Title: Employment Terminations

Policy No. 2.12

Date of Issuance: December 18, 1989

Revision Date: February 19, 1990; February 18, 2002

Description: This policy describes the various types of employment terminations including the procedures related to each. The rights of employees as they relate to terminations are also discussed. All employee terminations shall be designated as one of the following types and shall be accomplished in the manner indicated: resignation, layoff, disability, death, retirement, dismissal, and completion of assignment.

I. Employee Rights

- A. Regular employees who separate shall receive payment at regular pay for all earned salary, earned vacation and any other pay to which the employee is entitled.
- B. Pay shall be subject to the appropriate withholding and payroll deductions.
- C. Employees terminating their employment shall be referred to the Personnel Office for completion of appropriate forms.
- D. When selecting the effective date of resignation/retirement, the employee must choose a regularly scheduled work day as their final date of employment. For example, if the employee is regularly scheduled to work Monday through Friday, the employee must select a day that falls between Monday through Friday as their final day (i.e. an employee may NOT elect to resign or retire on a weekend or holiday). If the employee is a shift worker, they must select a resignation/retirement date that coincides with one of their regularly scheduled duty days of their shift.
- E. If the employee chooses to extend the date of resignation/retirement utilizing unused or accrued vacation benefits, the employee must give notice a minimum of two (2) weeks prior to the last actual work day. The date selected must also be a regularly scheduled work day. The employee must ensure that he/she has enough accrued or unused vacation to carry through to the date selected. When the employee selects his/her resignation/retirement date, the payroll department will calculate the accrued and unused time and the amount available for use to the retirement/resignation date to ensure the employee has enough time to carry them to their resignation/retirement date, the Personnel Office will notify them to select

another date. When an employee elects to extend his/her date of resignation/retirement using unused or accrued vacation, the employee will not accrue vacation or sick leave benefits beyond the day they are last physically present on their job. The last physical day on the job will be the final accrual date for benefits.

2. Terminations

A. Resignation

1. An employee may resign by submitting, in writing, a letter of resignation stating the reason and the effective date. A letter of resignation should be submitted as far in advance as possible. A minimum of two (2) weeks' notice (not to include vacation time) is required for nonprofessional employees and employees below the level of supervisor.
2. Department Heads, supervisory and management personnel shall arrange with their respective department head or Mayor an appropriate minimum notice of resignation.
3. All resignation notices shall be submitted to the Department Head and Personnel Office.
4. Failure to comply with these requirements may be cause for denying future employment with the City.

B. Layoff

1. The department head, upon approval of the Personnel Committee, may lay off an employee when it becomes necessary due to a shortage of funds or work, the elimination of the position, changes in duties or organization, or other related reasons. The duties performed by a laid-off employee may be assigned to other regular employees already working who hold positions in appropriate classifications. Management reserves the right to keep some employees working in all functions and skill areas, regardless of seniority. Otherwise, every effort will be made to follow seniority in selecting employees for layoff.

2. Recall

The most senior employee with the required qualifications and experience for an open position shall be recalled first.

C. Disability

An employee may be separated for disability because he/she cannot perform the essential functions of the position even with reasonable accommodation, where required. Action may be initiated by the employee, their legal representative or the City, but in all cases, it must be supported by medical evidence acceptable to the City. The City may require, at its expense an examination performed by a physician of its choice to verify the existence and extent of the disability. The City retains the right to reassign the employee to a position with essential functions the employee is capable of performing.

D. Death

Separation shall be effective as of the date of death. All compensation due (as stated under Section I of this policy) shall be paid to the estate of the employee, except for any sums specified by law to be paid to the surviving spouse.

E. Retirement

The normal retirement age shall be consistent with state and federal law. Information relating to retirement benefits may be obtained from the State of Wisconsin Department of Employee Trust Funds or the City Personnel Office.

F. Dismissal

Dismissal or discharge for cause is discussed in the Policy on Discipline and Discharge.

G. Completion of Assignment

Employees hired to fill temporary positions shall be terminated upon completion of the duties for which the temporary position was established. Temporary employees are not eligible for layoff or seniority provisions provided under Section 2 above.

H. Exit Interview

Exit interviews will be held with all terminating employees. The Mayor will conduct the interview with Department Heads, and Department Heads or Supervisors will interview other employees. The purpose of this interview is to allow the employee an opportunity to discuss their employment as well as relate any concerns or suggestions.

Proposed Amendment to Administrative Policy 2.11 (1) (C)

Disciplinary action taken should be reasonable appropriate and within the guidelines as outlined below:

1. Whether the employee could reasonably be expected to have had knowledge of the probable consequences of their alleged conduct.
2. Whether the rule or order that the employee allegedly violated is reasonable.
3. Whether the City, before disciplining/terminating the employee, made a reasonable effort to discover whether the employee did in fact violate a rule or order.
4. Whether the investigation described under section 3 was fair and objective.
5. Whether the City discovered substantial evidence that the employee violated the rule or order as described in the discipline/termination action filed against the employee.
6. Whether the City is applying the rule or order fairly and without discrimination to the employee.
7. Whether the proposed discipline reasonably relates to the seriousness of the alleged violation and to the employee's record of service with the City.

**** CITY OF STEVENS POINT ****
ADMINISTRATIVE POLICY

Policy Title: Grievance Procedures

Policy No. 2.10

Date of Issuance: December 18, 1989

Revision Date: September 19, 2011, January 21, 2013, May 19, 2014, March 16, 2015

1. Purpose

The purpose of this Policy is to set forth the procedure to be followed with respect to grievances by employees, union, and non-union, including department heads. The terms of this Policy shall control unless another valid and enforceable grievance procedure exists in a collective bargaining agreement that applies to the matter.

This policy is intended to comply with Section 66.0509, Wis. Stats., and provides a grievance procedure addressing issues concerning workplace safety, discipline and termination. This policy applies to all employees covered under Section 66.0509, Wis. Stats., other than police and fire employees subject to Section 62.13(5), Wis. Stats. An employee may appeal any level of discipline under this grievance procedure. Nothing in this policy is intended to create a legally binding contract. The City of Stevens Point reserves its management rights to exclusively manage its operations in the best interest of the taxpayers of the City.

2. Definitions

A grievance is defined as a dispute or misunderstanding regarding the actions of City officials with regard to the following:

- Employee termination

“Termination” includes an involuntary end to employment but excludes 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; death; or the end of the employment of a temporary, contract or part-time employee.

- Employee discipline

“Discipline” includes verbal reprimands; written reprimands; and suspensions without pay.

Discipline does not include action taken because of poor job performance, performance evaluations, performance improvement plans, or counseling (verbal or written) regarding job performance.

- 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.

3. Standard of Review

At steps 3, 4, and 5 in the grievance process for grievances related to employee discipline and employee termination, the standard of review applied shall be to determine whether the discipline or termination was issued in compliance with the procedures and standards described in Policy No. 2.11 and, in cases of termination, No. 2.12.

43. Preliminary Procedures

A. Preliminary Grievance Steps

Step 1: Prior to filing a written grievance, employees should discuss any problem or complaint with his/her Immediate Supervisor to determine if the grievance can be resolved. For department heads as appointed under the Revised Municipal Code 3.08, the Immediate Supervisor for Step 1 grievances is the Mayor.

Step 2: If the grievance cannot be resolved at Step 1, the employee must file a written grievance with the City Human Resource Manager 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 and issue involved; (2) the date(s) the event(s) giving rise to when the grievance occurred; (3) a listing of all parties involved; (4) the remedy sought by the employee; and (5) the employee’s signature and date. The City Human Resource Manager shall respond to the grievance in writing within ten (10) calendar days of receipt of the written grievance.

B. Appeal to Personnel Committee

Step 3: If the grievance is not resolved at Step 2, the employee may appeal a denial by filing a written appeal of the grievance with the Personnel Committee within ten (10) calendar days from receipt of the City Human Resource Manager’s decision. The Personnel Committee shall meet with the parties to discuss the matter. Within ten (10) calendar days of the meeting, the Personnel Committee

shall issue a written decision sustaining or denying the grievance.

54. Hearing Officer Proceedings

A. Appeal to Hearing Officer

Step 4: If the grievance is not resolved at Step 3, the employee may appeal a denial by filing a written request for a hearing before a Hearing Officer. This request must be received by the Personnel Committee no later than ten (10) calendar days after the employee receives the Personnel Committee's written response.

On appeal, the Personnel Committee shall transmit the grievance, all grievance responses, and this Grievance Procedure to the Hearing Officer. As soon as is practicable thereafter, the Hearing Officer shall schedule a date for a hearing. The hearing shall be held at a mutually agreeable time in a public building and shall be open to the public unless the Hearing Officer otherwise directs.

B. Hearing Procedure

The 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. The hearing shall be conducted in accord with the hearing procedures of the American Arbitration Association. Any party requesting a subpoena from the Hearing Officer is responsible for the fees associated with the subpoena. All testimony shall be taken under oath and shall be recorded by a court reporter under the supervision and control of the Hearing Officer, unless another method of recording is mutually agreed to by the parties and approved by the Hearing Officer. All costs associated with the court reporter and preparation of a transcript of the hearing shall be evenly split between the parties. In all cases, the grievant shall have the burden of proof to support the grievance. The Hearing Officer may only overrule a disciplinary action if the action taken was arbitrary or capricious.

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A. Appeal to City Council

Step 5: Within fourteen (14) calendar days of the date that the Hearing Officer's decision is mailed, either party may file with the City Council a written notice of appeal of the Hearing Officer's determination to the City Council. 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 City Council within twenty (20) calendar days of the notice of appeal. No formal hearing shall be held before the City Council. The Council shall receive no further evidence on the matter but may request additional written submittals of the parties on matters which were raised before the Hearing Officer or, at its discretion, meet with the parties to review the matter. The City Council may retain outside counsel if necessary during the process.

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Step 6: Within forty (40) calendar days of the receipt of the written record, the City Council shall make and file its written decision with the Clerk's office. The Clerk or designee shall, within five (5) 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 Personnel Committee. The Hearing Officer's determination may be affirmed, modified, or reversed by a majority vote of the City Council. The City Council's decision shall be final and binding on the parties. There shall be no subsequent right of appeal.

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A. Qualifications/Selection

The City may contract with a Hearing Officer to hear and determine appeals at Step 4. Any Hearing Officer so engaged shall not be a City employee or receiving any compensation or benefits from the City other than those described below.

The City Clerk or designee shall create a panel of at least three (3) individuals when needed who have indicated a willingness to serve in the capacity of Hearing Officer and who are experienced in personnel matters and/or who are active or retired attorneys, retired members of the judiciary, retired administrative staff, or currently on the list of arbitrators or mediators for the Wisconsin Employment Relations Commission. The City Clerk shall draw three (3) names and list them in order of drawing with the first drawn name being appointed as the Hearing Officer. In the event a Hearing Officer is unable to accept the designation as Hearing Officer, the next numeric selection by the Clerk shall be appointed.

B. Compensation

The Hearing Officer shall be compensated at the Hearing Officer's regular rate for the hearing, travel time, and time spent preparing a written decision. The compensation for the Hearing Officer will be split evenly between the parties.

C. Conduct of Hearing

- 1) Generally. The Hearing Officer is not bound by the strict rules of procedure and the customary practices of courts of law.
- 2) Opening Statements. Opening statements are optional and shall be confined to a brief summary of the nature of the case, the evidence intended to be offered, and the controlling legal authorities.
- 3) Order of Proceeding. The grievant shall present evidence first.
- 4) Evidence. The Hearing Officer is not bound by common law or statutory rules of evidence. All testimony having reasonable probative value shall be admitted, and immaterial, irrelevant or unduly repetitious testimony shall be excluded. The Hearing Officer shall give effect to the rules of privilege recognized by law. Hearsay evidence may be admitted into the record at the discretion of the Hearing Officer and accorded such weight as the Hearing Officer or commission deems warranted by the circumstances.
- 5) Testimony of Witnesses. (a) Witnesses may testify by answering questions posed to them. (b) Cross-examination is not limited to matters to which the witness testified on direct examination. (c) At the discretion of the Hearing Officer, witnesses' testimony may be taken via telephone rather than in person. (d) At the request of either party, the Hearing Officer may order the exclusion of the witnesses in accordance with the provisions of s. 906.15, Stats.
- 6) Stipulations. Parties may stipulate to some or all of the facts that are material to a case and the Hearing Officer may base an order upon the stipulation.
- 7) Sanctions.
 - (a) Unless good cause can be shown, any party who fails to appear at a hearing after due notice is deemed to have admitted the accuracy of evidence adduced by the parties present and the Hearing Officer may rely on the record as made. If the absent party has the burden of proof, the Hearing Officer shall consider a motion to dismiss by the parties present without requiring presentation of any evidence.
 - (b) If a witness fails to appear despite the issuance of a subpoena, the

Hearing Officer may seek initiation of contempt proceedings.

(c) If a witness refuses to answer a proper question or otherwise engages in misconduct, the Hearing Officer may exclude the witness, may strike all or part of the witness' testimony, may make an appropriate inference or may impose any combination of sanctions under this paragraph.

(d) The Hearing Officer may exclude persons other than witnesses from the hearing for misconduct.

| 87. 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. All settlements shall be in writing and signed by the employee in question and the appropriate City official(s) involved at the step level that the grievance was settled.

| 98. Revisions/Updating

This Policy may be amended or repealed by the City Council at any time.

**** ADMINISTRATIVE POLICIES ****
CITY OF STEVENS POINT

Policy Title: Discipline Procedures Policy No. 2.11

Date of Issuance: December 18, 1989

Revision Date: May 21, 1990, January 21, 2013, March 16, 2015

Introduction: This policy defines the procedure to be followed if an employee's performance or behavior falls below an acceptable level. Discipline is used when other methods of correcting the problem (performance appraisal, coaching, training, or counseling) have not been successful, or when the offense is considered serious. It applies to both management and union employees, as well as department heads.

This policy does not apply to a new employee during his/her evaluation period.

Sometimes employees have personal problems which affect their behavior or job performance. When these problems occur, the supervisor should refer the employee to the City's Employee Assistance Program (EAP) for help. For more information on the EAP program, the employee may refer to Policy No. 3.04 or contact his/her area's Resource Coordinator.

NOTE: For discipline actions against Department Heads as identified in Revised Municipal Code 3.08, the "supervisor", "Division Head", or "Department Head" as those terms are used in this Policy shall be the Mayor.

I. Policy

- A. Disciplinary action will be taken against an employee when deemed appropriate. This could occur because of a violation of a policy, poor performance or other action considered inappropriate. Refer to Policy No. 1.04 on Personal Conduct for a list of activities considered to be inappropriate. This is not an all-inclusive list.
- B. The City normally adheres to a policy of progressive discipline where the penalty become more severe with each additional inappropriate action or as a result of progressively declining performance. The steps involved in progressive discipline are described in further detail within this policy. In most cases, progressive discipline will be the appropriate means for correcting a problem.
- C. A "just cause" standard is not required to be met in the issuance or review of disciplinary action, but disciplinary action taken should be reasonable or

appropriate and not arbitrary and capricious, given the circumstances associated with the discipline. To determine whether discipline meets these standards, the following shall be considered:

(1) Whether a reasonable person in the employee's position could be expected to have had knowledge of the probable consequences of his or her alleged conduct.

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(2) Whether the City, before disciplining the employee, made a reasonable effort to discover whether the employee did in fact violate a rule or order.

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(3) Whether the investigation described under section 3 was fair and objective.

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(4) Whether the City discovered substantial evidence that the employee violated the rule or order as described in the discipline action filed against the employee.

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(5) Whether the City is applying the rule or order fairly and without discrimination to the employee.

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D. Some actions are so severe and damaging to the City or its employees that a supervisor may feel it is warranted to override the normal progressive discipline process and immediately proceed to a higher level of corrective action. If a supervisor feels more severe action is warranted, it is recommended that he/she discuss the case with his/her supervisor, the City Attorney, and/or the Personnel Office prior to administering the disciplinary measure.

E. An employee has the right to representation at all steps of discipline; however, he/she may waive that right if they wish.

2. Progressive Discipline

A. Verbal Warnings

A verbal warning is given for a less serious offense or performance problem. A verbal warning is a discussion with the employee of the specifics of the problem, including what performance or behavior is expected in the future. The supervisor should make a note of the warning and see that a copy is given to the Personnel Office for placement in the personnel file. The note should clearly indicate this is a verbal warning and should include the employees name, the date, time, place, and reason for the warning.

NOTE: As in all steps of progressive discipline, formal documentation is extremely important. Documentation is used to establish a pattern of behavior upon which to proceed to a higher level of discipline.

B. Written Reprimands

- (1) A written reprimand is issued when verbal warnings prove unsuccessful or when an employee's behavior or conduct requires something more serious than a verbal warning.
- (2) A written reprimand should include the following information:
 - (a) A description of the specific problem or offense and when it occurred.
 - (b) What actions and/or previous disciplinary measures have been taken to correct the problem?
 - (c) What behavior or performance expectations must be met in order to correct the problem?
 - (d) A warning that further unsatisfactory behavior or performance may result in additional discipline, up to and including dismissal.
 - (e) A notation that a copy has been placed in the employee's permanent personnel file. NOTE: If the employee is represented by a union, a copy of the reprimand should be forwarded to the union steward.
- (3) The Division Head or Department Head will review and sign the reprimand to ensure that it is consistent, fair and proper. The supervisor should then formally discuss the reprimand with the employee. Both the supervisor and employee should sign the reprimand to indicate it has been discussed and reviewed. The employee may attach a brief written comment to the reprimand if he/she chooses. A copy of the reprimand (including any attachments) should be kept by the supervisor and the employee. The original document should be sent to the Human Resource Manager for placement in the personnel file.

C. Suspensions

- (1) If an employee receives a written reprimand and engages in similar conduct within a period of twelve months, or engages in serious

misconduct, he/she will be suspended without pay for a minimum of one day. Notice of the suspension (including the dates) should be given in a written document. NOTE: It is recommended that three (3) day suspensions do not begin on Monday nor end on Friday.

- (2) In certain instances a supervisor may feel it necessary to remove an employee from the work environment pending further investigation of the details surrounding a suspected violation. In cases such as this, the employee will be given an indefinite suspension (leave) immediately without pay until an investigation has been made and the action to be taken determined. Should the investigation reveal no violation or negligence existed on the part of the suspended employee, he/she will be immediately reinstated with full back pay. Should the investigation reveal circumstances requiring disciplinary action, the supervisor may opt to reinstate the employee with full, partial, or no back pay depending upon the seriousness of the offense. The supervisor may also determine that certain actions warrant additional suspension or termination.

D. Termination

- (1) An employee may be subject to termination based on his/her conduct, or based on conduct and prior instances of conduct.

- (2) Letter of Intent

The supervisor must issue a letter explaining his/her intent to terminate employment. This letter of intent must have the signed approval of the department head and City Attorney. A copy of the letter must be placed in the employee's permanent personnel file. The letter must:

- (a) Explain the reason(s) for the termination and detail specific dates and times, if appropriate.
- (b) Make clear the fiscal conditions of the termination including the last day for which the employee will receive pay and the amount of accrued annual leave to be paid.
- (c) Inform the employee of his/her rights under the Grievance Procedure described in Policy 2.10.

**** CITY OF STEVENS POINT ****
ADMINISTRATIVE POLICY

Policy Title: Promotions and Transfers

Policy No. 2.06

Date of Issuance: December 18, 1989

Revision Date: Feb.19, 1990, March 18, 1996, September 21, 2015

Description: The policy of the City is to fill position vacancies by promotion or transfer whenever practical and in the best interests of the City. This explains the City's policy on promotions and transfers for employees whose position is on the City's Pay Plan.

1. When a vacancy exists for management level positions, candidates seeking promotion and/or transfer must have satisfactorily completed their evaluation period and possess the qualifications and skills needed in the vacant position.
2. Requests for promotion **for management level positions (except Police and Fire)** must be submitted by the applicant's supervisor to the Mayor and Personnel Committee for approval. The request for promotion should include information relative to the employee's qualifications to fill the vacancy. Promotions for hourly employees will be approved by the Department Head. **Requests for promotion of Police and Fire Personnel to management level positions shall go to the Police and Fire Commission.**
3. Promotions or transfers are considered final after a six month evaluation period has been satisfactorily completed in the new position.

A promoted employee who does not successfully complete the required evaluation period may be given the opportunity to return to his/her former position, or a comparable one. If a position is not available, the employee must wait for a vacancy or may see employment elsewhere.

4. The starting salary upon promotion shall be the first step in the grade the position resides that provides the employee an increase of a minimum of 5%. If there is not a step in the grade that provides the employee an increase of at least 5%, then the increase will be 2% above the employee's current pay rate.

Assistant Chief's in the Police and Fire Departments shall start at a minimum of Step 3. The Police and Fire Commission may also request a higher starting step. Such request shall go to the Personnel Committee.

In the case of a transfer to a position in the same grade as the employee's current position,

the salary shall remain the same, and the progression in the pay plan (time until next step) shall also remain the same.



November 2, 2015

MEMO

RE: Health Insurance Change

Personnel Committee:

As a clarification to last month's request to move a few employees from the City health care plan over to the "Central States Team Care" plan, I would like to state that it was my intention to include the management employees of Transit and Airport. They were in the count of my original text (copied below), but I should have been more clear to outline them specifically. It seemed at Council, that the explanation was sufficient, but I would like official action just so there aren't any questions. Please feel free to contact me with any questions you may have. Thanks, Joel

The text below is from the request last month:

"Several years back the members of the General Teamsters Union, Local 662 (utility department employees) changed health insurance providers to move away from the City self-funded plan and move toward a plan offered and administered by "Central States Team Care." The plan has provided good benefits and been easy to administer for the Department in the almost 5 years' worth of enrollment.

The Department is requesting that the members of management in the Department be allowed to move, as a whole group, over to the same plan. This will allow the administration of one plan for the group and make movement within the Department easier. Currently, when an employee moves from hourly to management, there is an insurance change that is required, which can result in an employee needing to meet two health plan deductibles in one year. Allowing this change would eliminate that change and potential for meeting two deductibles in one year.

The total number of employees that would enroll in the Team Care plan is 10 or 11. This number is very small as a percentage of the whole and does not bring about any concerns from City Administration.

I look forward to any discussion or questions you may have. If there is any specific information you would like compiled prior to the meeting, please let me know and I'll be happy to prepare it for the Committee."

Thank you for your consideration,

Joel Lemke
Director

Employees falling into this category will be eligible for continuation of health, life and disability insurance coverage by continuing to pay their portion of the premiums. This provision is only for those employees who have been given written order to report and will continue only for the duration of their orders. As it relates to these benefits not withstanding any union agreement to the contrary, this provision will cease on December 31, 2009.

Calculation of time in City Service

The time a City employee is on short term or long term Military Leave without pay is included in the calculation of his/her total length of time in City service.

Leave of Absence

Upon the recommendation of the department head, the Mayor and City Personnel Committee may grant a regular employee a leave of absence subject to the conditions set forth below.

1. Leave without pay shall be granted only when it is in the best interests of the City to return the employee to service at a future date. Requests for leave of absence shall be approved prior to the taking of such leave. If the leave is requested as an extension of sick leave, it must be accompanied by a physician's statement indicating the need for such leave.
2. At the end of a leave of absence, the employee shall be reinstated in the position he/she vacated, or in an equivalent vacant position, if the employee meets the stated qualifications. If there is not a suitable vacancy available, the employee's name shall be placed on a waiting list.
3. Credit toward vacation and sick leave shall not be earned while an employee is on leave of absence, but insurance benefits may be retained if the premium is paid in full by the employee.
4. If an employee is on leave of absence for more than ten (10) consecutive work days during a calendar year, it shall change the employee's anniversary date correspondingly.
5. A return to work earlier than the scheduled date may be arranged between the department head and the employee.
6. Employees on leave of absence will be subject to termination if actively employed elsewhere during the term of their leave.

7. If an employee is unable to return to work on the date stipulated, he/she may submit a written request to extend a leave of absence, to the Personnel Committee . If, on the date following the expiration of the leave of absence, an extension has not been requested and granted and the employee has not returned to his/her position, the employee shall be considered to have resigned from City employment.

An employee must exhaust all accrued vacation benefits before requesting a leave of absence.

Unauthorized Absence

An employee who is absent from duty without prior approval shall receive no pay for the duration of the absence, and shall be subject to disciplinary action which may include dismissal. It is recognized there may be extenuating circumstances for an unauthorized absence.