

	<i>Administrative Regulation</i>	
	INVESTIGATIONS	Policy #: 17.01
		Effective: 03/20/2018
		Revised: 09/04/2024
	Owner: Human Resources	

Note: Terms that are ***bolded and italicized*** the first time they appear in this regulation are defined below. After the first occurrence, defined terms appear in *italics only*.

PURPOSE:

This administrative regulation establishes a consistent and systematic process for investigating employee behavior and actions that do not meet the City’s expectations.

SCOPE:

This regulation applies to complaints, reports, and inquiries about matters that appear to be inappropriate, illegal, or inconsistent with City policy or that may threaten City employees or assets.

This regulation does not apply to routine workplace issues, ordinary differences of opinion, or matters solely related to performance management or performance evaluations, unless such matters involve alleged ***misconduct***.

POLICY:

The City will conduct appropriate ***investigations*** into reported issues in accordance with this regulation.

Employees, customers, vendors, members of the community or other stakeholders may report any matter that appears to be inappropriate, illegal, or inconsistent with City regulations, or that may threaten City employees or assets under any applicable law, regulation, order, policy, or procedure.

Individuals are encouraged to make any reports of workplace ***misconduct*** as soon as possible after learning or witnessing the conduct in question. Delays in reporting may hinder the effectiveness of the *investigation*.

Employees may have a duty to report harassment or hostile work environment incidents and should consult that administrative regulation for more information.

PROCEDURE:

1. Reporting Concerns

A. Routine Matters

- a. Routine workplace issues, ordinary differences of opinion, performance management or reviews, or other matters should be reported and managed through the employee’s department management team, unless the matter involves the complainant’s management chain.

B. Matters Requiring Immediate HR Involvement

- a. The following matters must be immediately reported to the Director of Human Resources and managed in accordance with applicable administrative regulations:
 - (1) Allegations of sexual harassment or sexual assault;
 - (2) Allegations of harassment or discrimination based on any protected characteristic, including race, color, national origin, gender identity, gender, pregnancy, religion, age, veteran status, disability, retaliation, or other associated protected class;
 - (3) Allegation of criminal activity, fraud, or dishonesty involving City funds, property, or assets;
 - (4) Allegations involving violence, abuse, threats by or against employees in connection with City duties;
 - (5) Allegations of workplace violence or credible threats of violence;
 - (6) Complaints identified as whistleblower reports;
 - (7) Allegations of retaliation for reporting *misconduct* or participating in an *investigation*; and
 - (8) Matters involving outside attorney, law enforcement, regulatory agencies, or where litigation is reasonably anticipated.

C. Criminal Conduct

- a. If an employee believes a crime, particularly violent crime, is occurring or has occurred, the employee must notify law enforcement immediately.
- b. When safe to do so, the employee must also notify their supervisor and Human Resources..

2. Conducting Investigations.

A. General Standards

- a. An *investigation* will be conducted promptly, thoroughly, and based on the nature of the allegation.
- b. The *investigation* will:
 - (1) Assess the allegations;
 - (2) Gather relevant facts and evidence;
 - (3) Evaluate credibility and consistency; and
 - (4) Determine appropriate follow -up or corrective action.

B. Informal vs. Formal Investigations

- a. Not all concerns require a formal *investigation*. An informal inquiry may be appropriate when:
 - (1) The issue involves a misunderstanding or lack of clarity regarding policy;

- (2) The concern relates primarily to communication issues;
- (3) No additional facts are required to resolve the matter;
- (4) The issue does not require extensive resources or legal review; and
- (5) The reporting employee is amenable to informal resolution.

C. Investigative Tools

- a. The City reserves the right to use appropriate investigative techniques, including but not limited to:
 - (1) Audio or video recording interviews;
 - (2) Review of video surveillance;
 - (3) Monitoring of City-provided or subsidized equipment, systems, or devices; equipment.
 - (4) Review of electronic communications, internet usage, GPS data, key card access, or password access logs.

D. Garrity Warnings

- a. A Garrity warning must be issued when an employee is compelled to provide statements and criminal conduct may be implicated.

E. Outside Investigators

- a. The City may engage outside investigators when appropriate due to the nature, complexity, or sensitivity of the matter.

F. Documentation and Retention

- a. *Investigations* must be properly documented to support any management action and retained in accordance with the Oregon Records Retention Schedule.

G. Status Updates

- a. Within a reasonable time, and in consultation with Human Resources, the department shall ensure a response is provided to the reporting employee indicating the status of the reported issue.

3. Cooperation in Investigations

A. General Standards

- a. Employees are required to always cooperate with the City's agents before, during, and after the conclusion of an *investigation*.
- b. Failure to cooperate with an ongoing *investigation* may result in disciplinary action, up to and including termination.

- c. Similarly, failure to be completely honest or forthcoming during an *investigation* is also grounds for discipline, up to and including termination.

B. Administrative Leave

- a. The City may place employees on paid administrative leave during an *investigation*.
- b. Employee on administrative leave must be available during normal working hours or as otherwise directed.
- c. If the employee is ill or otherwise unavailable, they must notify their supervisor to ensure proper timekeeping.

4. Witness Interviews

- a. Employee who makes a written or verbal complaint regarding workplace *misconduct*, or any witness to the conduct, should expect to be interviewed.
- b. Witnesses are required and expected to bring any available evidence and any written complaints they made regarding the subject of the *investigation* to the witness interview.

5. Confidentiality

- a. The City will make reasonable effort to protect the confidentiality of the reporting employees and witnesses , consistent with legal requirements.
- b. Confidentiality cannot be guaranteed in all cases. Disclosure may be required to:
 - (1) Conduct a fair *investigation*;
 - (2) Comply with legal obligations; or
 - (3) Cooperate with law enforcement or regulatory agencies.
- c. The City has a compelling interest in protecting *investigation* integrity, including preventing retaliation, evidence tampering, or witness intimidation.
- d. Information regarding *investigation* outcomes and discipline will be shared only with authorized individuals and only to the extent permitted by law.
- e. If an *investigation* reveals potential criminal conduct, the City must report the matter to appropriate authorities.

6. Investigation Outcomes

- a. Internal *investigations* use a reasonable-belief standard, not the criminal or civil court standard of proof.
- b. If sufficient evidence supports the allegations, department leadership must take prompt and appropriate corrective action consistent with the Corrective Action administrative regulation.
- c. Disclosure of discipline imposed on other employees requires approval from the Director of

Human Resources and consultation with the City Attorney.

- d. Employees who are the subject of an *investigation* may request a summary of the findings. Identifying or confidential information may be redacted.

7. **Non-Retaliation**

- a. The City strictly prohibits retaliation against any employee who reports *misconduct* or participates in an *investigation* in good faith..
- b. Employees who are unsure whether conduct constitutes *misconduct* should consult Human Resources.

8. **Union Employees**

- a. Union-represented employees are entitled to representation during investigatory interviews in accordance with applicable Collective Bargaining Agreements.
- b. An employee who chooses to waive union representation must do so in writing and submit the waiver to Human Resources.

9. **Appeals**

- a. Employees wishing to challenge disciplinary action must follow the grievance or appeal procedures outlined in the applicable administrative regulation or collective bargaining agreement.

10. **Record Retention**

- a. All *investigation* records must be forwarded to and maintained by Human Resources in compliance with City records retention requirements.

DEFINITIONS:

Investigation:

A systematic inquiry, careful examination, or search to discover facts, details and evidence to reach a conclusion.

Misconduct:

Any action by an employee which adversely affects the employee's ability to properly perform assigned duties, impacts City property, impairs customer service, discredits the City's image, threatens safe and productive City operations, or endangers City personnel.

RESOURCES:

Administrative Regulations:

- [Corrective Action](#)
- [Grievance: Non-Union](#)
- [Open Door](#)

- [Record Retention and Destruction](#)
- [Respectful Place to Work](#)
- [Reporting Improper or Unlawful Conduct – No Retaliation](#)

Forms:

- [Coaching Form](#)
- [Corrective Action Form](#)
- [Complaint of Harassment Form](#)
- [Garrity Statement of Rights](#)
- [Investigation Expectations Form](#)

Misc.:

- [Corrective Action Guidance](#)
- [Garrity Rights](#)