

	<i>Administrative Regulation</i>	
	Policy#	16.1
	Effective:	03/20/2018
	Revised:	09/04/2024
Investigations		Owner: Human Resources

Note: Terms in **bold** and *italics* throughout this policy are defined below.

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 administrative 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. It does not apply to routine workplace issues, differences of opinion, or workplace matters the complainant simply dislikes or disagrees with, or matters related to performance management or appraisals.

POLICY:

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

- 1.1. 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.
- 1.2. All complaints involving the following matters must be immediately reported to the Director of Human Resources and managed in accordance with applicable administrative regulations:

- 1.2.1. Any claim of sexual harassment or sexual assault.
- 1.2.2. Any claim of harassment or discrimination based on race, color, national origin, gender identity, gender (including pregnancy-related conditions), religion, retaliation, association with a protected class, age, veteran status, physical or mental disability, or any other characteristic protected by federal, state, or local law.
- 1.2.3. Any claim of criminal activity, fraud, or dishonesty involving City or customer funds, resources, or assets.
- 1.2.4. Any matters alleging illegal violence or abuse of or by outside individuals in connection with City duties.
- 1.2.5. Any matters involving workplace violence or a threat of workplace violence by any employee in the workplace.
- 1.2.6. Any claim labeled by an employee as a “whistleblowing complaint.”
- 1.2.7. Any matter alleging retaliation for filing a good faith complaint or cooperating in the investigation.
- 1.2.8. Any matter involving an outside attorney, law firm, law enforcement agency, or government regulator, or where litigation is more than causally threatened.
- 1.3. If an employee believes that they are witnessing or have witnessed a crime, particularly one of a violent nature, the employee must notify the police immediately. When the situation is safe, the employee must notify their supervisor and/or Human Resources.

2. Conducting Investigations.

- 2.1. Investigations will be conducted promptly and appropriately, using reasonable care and judgment.
- 2.2. The investigation will evaluate the allegation(s), formulate a response that addresses the facts as they are determined, and follow up to ensure that the necessary action steps are completed.
- 2.3. Not all workplace investigations require a formal and comprehensive approach. Depending on the nature of the complaint, sometimes an informal and relatively quick inquiry provides all of the information needed to reach a conclusion and resolution. Typically, an informal approach is used for matters related to:
 - 2.3.1. A potential misunderstanding of a City policy.

- 2.3.2. A lack of communication between the reporting employee and their supervisor or coworkers.
- 2.3.3. No other facts are needed to resolve the issue.
- 2.3.4. Requires no other resources for impartial and timely resolution.
- 2.3.5. The employee is amenable to informal resolutions.
- 2.4. The City retains the right to record interviews using audio or video equipment.
- 2.5. A Garrity warning shall be issued when criminal activity may be suspected.
- 2.6. The City reserves its right to use other investigative techniques, including, but not limited to, video surveillance, telephone monitoring, monitoring of employer-provided or subsidized smartphones or computers, data tracking (including global positioning system (GPS) information and internet usage), and tracking of employee key card entry or password entry systems.
- 2.7. In some situations, the City will require the involvement of outside investigators.
- 2.8. Investigations must be properly documented to support any management action and retained in accordance with the Oregon Records Retention Schedule.
- 2.9. 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 an Investigation

- 3.1. Employees are required to always cooperate with the City's agents before, during, and after the conclusion of an investigation. Failure to cooperate with an ongoing investigation may result in disciplinary action, up to and including termination. Similarly, failure to be completely honest or forthcoming during an investigation is also grounds for discipline, up to and including termination.
- 3.2. The City reserves the right to place employees on paid administrative leave during an investigation. If an employee is placed on administrative leave, they must be available to be interviewed or cooperate with the investigation during normal business hours.
 - 3.2.1. An employee on administrative leave must be available to be interviewed or cooperate with the investigation during their normal working hours or other hours as specified by their supervisor.

- 3.2.2. If the employee is sick or otherwise unavailable during administrative leave, they must notify their supervisor to ensure proper timecard coding.

4. Witness Interviews

- 4.1. Any employee who makes a written or verbal complaint regarding workplace misconduct, or any witness to the conduct, should expect to be interviewed.
- 4.2. Employee 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

- 5.1. The City will strive to protect the confidentiality of the reporting employee(s) whenever possible while remaining in compliance with the law. In some situations, the law requires employees who make accusations to include their names in official reports or to cooperate with outside regulators or law enforcement. The City reserves its right to disclose the identity of a complaining employee whereas the City has determined that such disclosure is in compliance with or required by law to complete the investigation.
- 5.2. The City also has a compelling interest in protecting the integrity of its investigations. In every investigation, the City will make the best effort to protect witnesses from harassment, intimidation, and retaliation; to keep evidence from being destroyed; to ensure that testimony is not fabricated; and to prevent cover-ups.
 - 5.2.1. The City may decide in some circumstances that to achieve these objectives, the City must maintain the investigation in strict confidence.
 - 5.2.2. The City will make its best effort to ensure that only the accused employee, their supervisor(s), Human Resources, and any other authorized parties are informed of the outcome of an investigation resulting in discipline.
- 5.3. If the City, during or after an investigation, finds a crime or violation of law may have occurred, the City shall report it to the appropriate authorities for further investigation or action.

6. Outcomes

- 6.1. The standard of proof in internal employment-related investigations is not equivalent to that of the judicial system. Instead, conclusions are based on a good faith investigation and a reasonable determination of the facts.
- 6.2. When the outcome indicates sufficient evidence to support the reported complaint, the department leader will take steps to correct the issue. The department leader

must take prompt action consistent with the severity of the offense. Leaders should follow the procedure outlined in the Corrective Action administrative regulation.

- 6.2.1. When providing responses to complaints, information about any disciplinary action taken against other employees may be disclosed only with the consent of the Director of Human Resources and in consultation with the City Attorney's Office.
- 6.2.2. Employees accused and investigated for misconduct have the right to request a summary of the completed investigation. Specific identifying information may be redacted.

7. Non-Retaliation

- 7.1. The City will not take retaliatory action against employees for reporting incidents of workplace misconduct so long as it is determined that the employee made the report in good faith. Employees should seek advice from Human Resources if unsure whether an incident constitutes misconduct.

8. Union Employees

- 8.1. Employees who are members of a union are entitled to have a union representative present during the witness interview, provided this provision does not conflict with the Collective Bargaining Agreement (CBA). If the employee belongs to a union but prefers that a union representative not accompany him or her to a witness interview, the employee must submit this preference in writing to Human Resources.

9. Appeals to Corrective Action

- 9.1. Employees wishing to appeal the discipline process may follow the grievance administrative regulation.

10. Record Retention

- 10.1. All investigations must be properly documented. All reports and investigation records must be forwarded to and maintained by the Human Resources Department in compliance with the City's records retention policies.

DEFINITIONS:

- 1. ***"Investigation"*** is a systematic inquiry, careful examination, or search to discover facts, details and evidence to reach a conclusion.
- 2. ***"Misconduct"*** is 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:

1. [Corrective Action](#)
2. [Grievance: Non-Union](#)
3. [Open Door](#)
4. [Record Retention and Destruction](#)
5. [Respectful Place to Work](#)
6. [Reporting Improper or Unlawful Conduct – No Retaliation](#)

Forms:

1. [Coaching Form](#)
2. [Corrective Action Form](#)
3. [Complaint of Harassment Form](#)
4. [Garrity Statement of Rights](#)
5. [Investigation Expectations Form](#)

Misc.:

1. [Corrective Action Guidance](#)
2. [Garrity Rights](#)