

# **City of Saint Paul Workplace Conduct Policy Complaint Reporting and Investigation Procedures**

## **Procedures for Responding to Allegations of Behavior in Violation of The Workplace Conduct Policy**

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### **GOAL**

The goal of this complaint procedure is to enable city managers to promptly, fairly, and effectively respond to complaints of discrimination, violence, harassment or offensive behavior in the workplace. This statement of procedures is not intended by the City of Saint Paul to create a contract. The City reserves the unilateral right to amend, rescind, and otherwise modify these procedures.

### **DEFINITIONS**

For the purpose of these procedures the term “Complainant” shall mean the person who is bringing the complaint and “Respondent” is the person against whom the complaint has been brought.

### **COMPLAINT REPORTING**

Any person who feels he or she is being subjected to discrimination, violence, harassment or offensive behavior shall report the behavior to their supervisor, Department/Office Director, City Attorney, or the Human Resources Director. In the case of violent behavior, the incident needs to be reported immediately.

In the context of the City of Saint Paul Workplace Conduct Policy and Complaint Reporting and Investigation Procedures, discriminatory behavior only deals with the work environment and does not include alleged discriminatory motivation in management decisions such as hiring, performance evaluation, job assignment, promotion, or firing unless it is alleged that such management decisions are part of a pattern of harassment or retaliation.

Employees may refer a complaint to a supervisor or Director in their Department/Office and request that the supervisor or Department/Office Director take a leadership role in resolving the issue. The supervisor or Director must complete an incident report and follow up accordingly even if the complaint is resolved without a formal investigation.

The Department/Office Director and Human Resources Director will determine if an investigation is necessary and assign an investigator. A Bargaining-Unit representative may sit in an interview (serving in a non-participatory role) upon an employee’s request.

### **COMPLAINT RECEIPT AND DOCUMENTATION**

A supervisor who knows, or has reason to know of discriminatory, violent or offensive behavior must take action immediately to deal with the situation. The supervisor must do the following:

1. Ask the Complainant about the specific nature of the behavior, person(s) involved and time

and place of behavior. Ask if there have been any past problems, and determine the specifics of any past problems. The supervisor/manager will document this information on the [Incident Form](#).

2. Determine whether the Complainant has any concern for his or her safety and, if so, take appropriate steps to respond to the concern. In the case of violent behavior, inform the Department or Office Director immediately and obtain emergency assistance, e.g. call police, emergency medical personnel, or building security as needed.
3. Inform the Complainant that the matter will be investigated and that retaliation will not be tolerated.
4. Inform the Complainant that the supervisor should be informed immediately should any further misbehavior or retaliation occur.
5. Inform the Department or Office Director of the situation. In the event that the Director is implicated in the behavior, the supervisor should inform the Human Resources Director.
6. In the case of violent behavior, consult with the Department or Office Director and the Human Resources Director regarding steps that should be taken to advise the Respondent of the existence of the complaint and that retaliation will not be tolerated.
7. In all other cases, inform the Respondent that the complaint has been brought, that it will be investigated impartially, retaliation will not be tolerated, and inform the Respondent of any other restrictions regarding interactions with the Complainant.

## **DEPARTMENT OR OFFICE DIRECTOR**

The Department or Office Director has the primary responsibility for enforcing the policy and procedure regarding workplace conduct. As soon as the Director is notified about the discriminatory, violent or offensive behavior, he or she or a designee, must respond immediately to the situation. In the event that a complaint is made against a Director, a member of a board, or any other person appointed by the Mayor, the Mayor shall be notified and shall perform the duties given to the Director under this procedure. The Director or a designee must do the following:

1. Review the [Incident Form](#) with the supervisor to obtain the facts of the complaint regarding the persons involved, the nature of the behavior, and the time and place of the behavior.
2. Contact the Human Resources Director to determine whether the complaint is within the jurisdiction of the Workplace Conduct Policy.
  1. If no, processing of the complaint will not proceed further. The Department will be responsible to resolve the matter and inform Human Resources of its outcome.
  2. If yes, the Human Resources Director and Department Director will decide if an independent investigator should be assigned or the investigation should be conducted by the Department. In either case, the investigation should be conducted promptly and the report completed within agreed upon time lines. In the event that an investigation is not

completed within the agreed upon time lines, the investigator shall provide the Human Resources Director and Department Director with a status report stating a reason for the delay and projected time of completion.

3. Confirm that the safety concerns of the Complainant have been addressed. Many acts of workplace violence are also criminal acts. In the case of violent behavior, make certain that emergency assistance, as needed, has been obtained. This could include police, medical treatment, building security or other assistance. If necessary, this may include relieving one or both parties of their duties, with pay or without pay, pending the resolution of the complaint.
4. Ensure that the Department Director or their designee (it may also be the Human Resources Director) advises the Complainant in writing about the investigation, using the [Notice to Complainant form](#), including the following:
  1. The name of the investigator
  2. The dates of the investigation
  3. That the Complainant must cooperate with the investigation
  4. That the Complainant should contact the Director immediately about any concerns that the investigator will not be fair and impartial
  5. That the Complainant should inform the Director of any hostile or retaliatory acts that may occur.
5. Ensure that the Department Director or their designee (it may also be the Human Resources Director) advises the Respondent in writing about the complaint and the investigation, using [Notice to Respondent form](#), including the following:
  1. The name of the investigator
  2. The dates of the investigation
  3. That the Respondent must cooperate with the investigation
  4. That the Respondent should contact the Director immediately about any concerns that the investigator will not be fair and impartial
  5. That the Respondent is ordered to take no hostile or retaliatory actions.
6. Receive the written report of the investigation. This should be done in a meeting with the investigator and, if necessary, the Human Resources Director and/or an Assistant City Attorney. Based on the result of the investigation, the Director shall determine what, if any, action is necessary. If the investigation substantiates that discriminatory, violent, harassing, or offensive behavior occurred, the Director must take reasonable steps to stop the behavior. These steps may include, without limitation, an apology, transfer, direction to stop the behavior, counseling or training, oral or written warning, suspension with or without pay, or termination. The Director shall notify in writing, the Human Resources

Director of the results of the investigation, using the [Investigation Results to HR Director form](#) including what, if any, action was taken.

7. Meet with the Complainant, separately from the Respondent, and advise him/her in writing, using [Investigation Results to Complainant form](#) that the investigation is complete and that appropriate action will be taken, if any. (Please note: Under the Minnesota Data Practices Act, the report is private data about the respondent and the Complainant is not entitled to it nor the results. If any disciplinary action is taken, it is also private data until any subsequent grievance is in final form.) The Department Director shall direct the Complainant to contact him/her regarding any hostile or retaliatory acts that may occur.
8. Meet with the Respondent, separately from the Complainant, and advise him/her in writing, using [Investigation Results to Respondent form](#) about the results of the investigation, including action taken, if any. The Director shall direct the Respondent not to take any hostile or retaliatory acts.
9. Contact the Complainant three months after the investigation was completed so as to confirm that the behavior has stopped and that there have been no hostile or retaliatory acts. The Director shall notify the Human Resources Director in writing, using the [Three Month Follow-up Report form](#) of this follow-up.
10. Copy the appropriate Assistant City Attorney on all communication relative to the complaint.

## **INVESTIGATION AND MONITORING**

The Human Resources Director shall be responsible for monitoring the investigation of complaints and departmental compliance with the policy and procedures governing discrimination, violence, harassment or offensive behavior in the workplace. The Human Resources Director shall notify the Mayor of any cases of serious allegations of discrimination, including sexual and racial harassment. Upon completion of the investigation the Mayor will be provided a summary review of the investigation prior to any employment action. The Human Resources Director shall notify the Mayor of all cases of alleged violations of the policy by any person in a position appointed by the Mayor including, but not limited to, Department and Office Directors and members of boards and commissions.

The Department and Office Directors have the primary responsibility for enforcing the policy and procedure regarding workplace conduct and shall contact the Human Resources Director to assign an investigator who shall be responsible for investigation of complaints regarding this policy.

The investigator assigned to investigate such a complaint must possess the requisite knowledge, skills and abilities to conduct the investigation in compliance with all provisions of this policy and procedure. Every complaint and/or resolution of a complaint covered by this policy shall be reported to the Human Resources Director by the Department and Office Director. At the completion of each investigation, the investigator shall submit all notes and reports to the Human Resources Director. Human Resources shall be the data repository for Workplace Conduct Policy investigations.

The Human Resources Director may assign the investigation to another City department or an outside investigator. The Human Resources Director, with input from the City Attorney's Office, shall be responsible for proper training and supervision of the investigator.

The Human Resources Director shall monitor departmental compliance with the policy and procedures regarding workplace conduct. This monitoring shall consist of reviewing case materials to determine if time lines have been met and if follow-up has occurred. It shall also consist of maintaining city-wide statistical records regarding compliance with the policy and procedures. An annual report containing aggregate data gathered from the monitoring activities shall be maintained on file by the Office of Human Resources.

## **ELECTED OFFICIALS**

The Mayor and City Council Members are covered by this policy but, by virtue of their elected status, are not subject to the ordinary disciplinary measures available to the City as an employer. No internal entity has the authority to order remedial action when the Mayor or a Council Member is the Respondent.

Consequently, all complaints of discriminatory, violent or offensive behavior allegedly committed by the Mayor or by a Council member shall be referred to the Human Resources Director, who, in consultation with the City Attorney, shall review the matter to determine whether the Complainant has any concern for his/her safety and, if so, take appropriate steps to respond to the concern. Then the Human Resources Director shall:

1. Advise the Complainant that he/she has the option to refer this matter to the Minnesota Department of Human Rights. If that course is chosen, the Complainant should contact the Minnesota Department of Human Rights if any hostile or retaliatory acts occur.
2. The Human Resources Director shall inform the Respondent about the complaint, make an initial investigation of the complaint, and attempt to facilitate a satisfactory resolution of the matter.
3. Advise the Complainant and the Respondent of the results of the investigation once the investigation of the facts is completed.
4. Inform the Complainant again of his/her right to file a complaint with the Minnesota Department of Human Rights if the Complainant is not satisfied with the conclusions of the investigation.

## **POLICE DEPARTMENT COMPLAINT PROCEDURES**

The Police Department will investigate workplace conduct complaints for both sworn and non-sworn staff within the Police Department. Office of Human Resources staff may act as a consultant to the assigned investigator. The City of Saint Paul Workplace Conduct Policy shall apply in full. The Police Department shall submit a copy of the Incident Form, Investigation Results to HR Director and Three-Month Follow-up Report to the Office of Human Resources.