

Investigation Principles

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PURPOSE

The City of San Jose takes very seriously allegations of misconduct and/or substandard performance. The purpose of this Policy is provide guidance for conducting investigations of allegations of misconduct, substandard performance, and City policy violations. The City is committed to ensuring that all investigations are conducted in fair, impartial, thorough and thoughtful manner.

SCOPE OF APPLICATION

The City Manager's Office of Employee Relations is responsible for overseeing personnel investigations related to employees under the appointing authority of the City Manager. Employees under Appointing Authorities other than the City Manager are investigated by those Appointing Authorities, who may consult, coordinate, or request assistance from the Office of Employee Relations, if they desire.

For concerns involving high-ranking individuals and other unclassified employees not otherwise covered by the [Discipline Policy](#), Section 2.1.3 of the City Policy Manual, the appropriate Appointing Authority will be informed of the complaint and shall authorize any investigation (for classified and unclassified employees). For certain investigations, such as those of high-ranking officials, the City may deem it appropriate to hire an external investigator.

PROCEDURES

Employees, City Departments, and members of the public may raise concerns in a variety of ways, including:

Phone	(408) 535-8150 (City Manager's Office of Employee Relations)
	(408) 535-8200 (Whistleblower Hotline, administered by the City Manager's Office of Employee Relations)
Fax	(408) 292-6436
Email	employee.relations@sanjoseca.gov (City Manager's Office of Employee Relations)
	hotline@sanjoseca.gov (Whistleblower Hotline)
Online Complaint Form	http://www.sanjoseca.gov/FormCenter/Human-Resources-15/Whistleblower-HotlineOnline-Complaint-Fo-75
In person or by mail	City of San José City Manager's Office of Employee Relations 200 E. Santa Clara St. (3 rd Floor Wing) San José, CA 95113-1905

After a complaint has been made, sufficient information is gathered and reviewed by the City Manager's Office of Employee Relations or applicable City Department in order to determine the appropriate action for processing the complaint. Care is taken to ensure that complaints are referred to appropriate sources within each City Department such that impartiality and objectivity are preserved; which may include the use of an outside investigator, if appropriate.

Circumstances that may not justify further review or investigation include those instances where, after looking into the complaint, it has been determined there is no basis for an

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investigation. This may occur when it can be demonstrated that the conduct alleged would not violate any City policies or procedures, or other applicable laws. Any decision not to investigate an allegation of misconduct that if true would be in violation of the City’s Code of Ethics, Discrimination and Harassment Policy, Workplace Violence Policy, and/or Substance Abuse Program and Policy should be made by the Director of Employee Relations or designee. Any decision not to investigate an allegation of other types of misconduct should be made in consultation with the ERL, Department Director, and/or OER.

Investigations will be conducted in a prompt and thorough manner by an impartial investigator who is free from any conflicts of interest that would impede his/her ability to conduct an objective and unbiased investigation. Confidentiality of investigations shall be maintained to the extent reasonably possible and information related to an investigation shall be shared on a need or right to know basis. This relates to all investigations, not just those related to classified employees.

Upon the conclusion of an investigation, the City will inform the complainant of such conclusion and will communicate any results, to the extent legally permissible. The City will also inform the employee at issue of the conclusion and results of the investigation, as appropriate.

Following an investigation, if deemed necessary, discipline shall be carried out in accordance with the [Discipline Policy](#), Section 2.1.3 of the City Policy Manual, for permanent, classified employees. Disciplinary action against unclassified employees shall be determined by the relevant appointing authority.

Approved:

/s/ Jennifer Schembri
Director of Employee Relations

August 9, 2016
Date

Approved for posting:

/s/ Jennifer A. Maguire
Senior Deputy City Manager

August 9, 2016
Date