

**Investigation Principles****2.1.4****PURPOSE**

The City of San José takes very seriously allegations of misconduct and/or substandard performance. The purpose of this policy is to 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 a 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 "City Officials" as defined in the City's open government and ethics provisions, 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 City Officials, the City may deem it appropriate to hire an external investigator. Investigations, whether conducted by an internal or external investigator, may be subject to disclosure pursuant to the City's open government and ethics provisions ([Resolution No. 77135](#) Section 4.3.2.5, Personnel Information).

Allegations that are criminal in nature are referred to the San José Police Department (SJPD) prior to the commencement of a personnel investigation. As covered in the [Administrative Leave Policy](#), Section 4.2.3 of the City Policy Manual, in the event that the Police Department receives a criminal allegation against a City employee that is credible and has the potential to impact the safety or financial health of the community and/or other City employees (examples include, but are not limited to, alleged sexual misconduct, assault or battery, and theft or bribery), the City Manager and the City Manager's Office of Employee Relations will be immediately notified. The Office of Employee Relations will notify departments of criminal allegations, unless it is determined that the referral could interfere with a police investigation, and will apprise departments of the findings of any investigation.

**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	<a href="mailto:employee.relations@sanjoseca.gov">employee.relations@sanjoseca.gov</a> (City Manager's Office of Employee Relations)
	<a href="mailto:hotline@sanjoseca.gov">hotline@sanjoseca.gov</a> (Whistleblower Hotline)
Online Complaint Form	<a href="https://www.sanjoseca.gov/your-government/departments-">https://www.sanjoseca.gov/your-government/departments-</a>

**Investigation Principles****2.1.4**

	<a href="#">offices/office-of-the-city-manager/employee-relations/whistleblower-hotline/form</a>
In person or by mail	City of San José City Manager's Office of Employee Relations 200 E. Santa Clara St. (3 <sup>rd</sup> 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 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 Employee Relations Liaison, Department Director, and/or the Office of Employee Relations.

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 their 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.

**Investigation Principles** **2.1.4**

Approved:

\_\_\_\_\_  
/s/ Jennifer Schembri  
Director of Employee Relations

\_\_\_\_\_  
4/9/24  
Date

Approved for posting:

\_\_\_\_\_  
/s/ Jennifer A. Maguire  
City Manager

\_\_\_\_\_  
4/9/24  
Date