

## **Personnel Rule 1.1 – Discrimination, and Harassment, Workplace Misconduct and Retaliation**

### **1.1.0 Authority**

SMC 3.15.022 and subsequent revisions thereto, Office of the Employee Ombud

SMC 4.04.050 and subsequent revisions thereto, Rule-making Authority

SMC 4.80.020 and subsequent revisions thereto, Affirmative Action Plan—Policy

SMC Chapter 14.04 and subsequent revisions thereto, Fair Employment Practices Ordinance

Executive Order 2019-04; Anti-Harassment and Anti-Discrimination

Title VII, Civil Rights Act, 42 U.S.C. 2000e, et seq.

RCW 49.60, Discrimination—Human Rights Commission

### **1.1.1 Application of this Rule**

This Rule shall apply to all city employees, including regularly appointed employees and temporary workers.

### **1.1.2 Inclusive Workplace Policy**

The City of Seattle is committed to respect, dignity, civility and equity. To achieve this, employees' actions shall support a positive and inclusive work environment. Discrimination, harassment, retaliation and Workplace Misconduct are prohibited. The City does not tolerate prohibited behavior against City employees by coworkers, supervisors, managers, officers of the City or by non-employees conducting business with the City.

Any employee who experiences or observes prohibited behavior should seek support or make a report pursuant to Personnel Rule 1.1.4. All reports will result in an intake and may be investigated subject to Personnel Rule 1.1.7 C. An employee found to have committed prohibited behavior may be subject to discipline under Personnel Rule 1.3, up to and including termination of employment.

This policy applies to any employee's behavior in connection to City employment. Definitions of terms used in this policy are included in the Preamble of these Personnel Rules.

### **1.1.3 Resources for Employees**

The Seattle Department of Human Resources and/or the Office of Employee Ombud shall make resources available for City employees to seek support and understand their options if they experience or observe prohibited behavior. Such resources include options for making informal inquiries with the Office of Employee Ombud, reports to the Human Resources Investigations Unit, contact information for internal and external employment discrimination enforcement agencies, and other information about the reporting process.

#### **1.1.4 Reporting Prohibited Behavior**

A. Employees are encouraged to promptly report allegations of experienced or observed prohibited behavior to the Seattle Department of Human Resources Investigation Unit. Employees may also report prohibited behavior to any management representative. A management representative who learns of possible prohibited behavior must report it as outlined in Personnel Rule 1.1.6, which will result in an intake as provided in Personnel Rule 1.1.7 C 1.

1. The City will keep confidential any information it gathers in the course of responding to reported prohibited behavior to the extent allowable under public disclosure or other laws. The City may also be required to share information on a need-to-know basis to carry out the intent of this policy.
2. The appointing authority or designated management representative shall assess the need to separate the person experiencing the possible prohibited behavior and the subject to avoid further prohibited behavior during the investigation. Prompt, effective and remedial action will be made as required by the circumstances.

B. Reports of alleged discrimination, harassment, or retaliation by an elected official may be submitted to any of the following agencies:

1. The Seattle Office of Civil Rights,
2. The Ethics and Elections Commission,
3. The Washington State Human Rights Commission, or
4. The federal Equal Employment Opportunity Commission.

C. Employees have a right to consult with or report alleged harassment, discrimination, and retaliation against non-elected officials to the agencies listed in Personnel Rule 1.1.4

B. Employees may also pursue legal action, in addition to the recourse provided under this Rule.

D. Retaliation for reporting discrimination, harassment, and employee misconduct is strictly prohibited.

#### **1.1.5 Employee Rights and Responsibilities**

A. Every employee has the right to a positive and inclusive workplace free from the prohibited behavior outlined in this policy.

B. Every employee is responsible for ensuring that their personal behavior supports a positive and inclusive workplace.

C. All employees shall refrain from prohibited behavior under this Rule.

D. An employee who experiences, observes, or becomes aware of prohibited behavior in the workplace should promptly report it to the Human Resources Investigative Unit or a management representative. Such report may be verbal or in writing, and may include the resolution sought.

E. Employees shall cooperate with any investigation of alleged prohibited behavior.

F. An employee found to have committed prohibited behavior may be subject to discipline under Personnel Rule 1.3, up to and including termination of employment.

G. An employee who has reported possible prohibited behavior can expect to receive status updates of the investigation from the investigator at least every two weeks, unless the employee and investigator mutually agree on a different frequency. The reporting employee shall also receive a final response from investigator, which ordinarily includes the investigation's findings.

H. An employee making a report is expected to report any additional prohibited behavior that they experience or observe, including retaliation for making the initial report.

#### **1.1.6 Responsibilities of Management Representatives**

A. Management representatives shall receive and act on reports of prohibited behavior pursuant to this Personnel Rule 1.1.6.

B. Management representatives who are told, observe, or otherwise have direct knowledge of possible prohibited behavior shall report it to the Human Resources Investigation Unit within a time period that is reasonably prompt with respect to the nature and severity of the allegation. Such management representative shall also comply with any departmental expectation to report possible prohibited behavior within the department.

1. Management representatives who fail to promptly report the alleged prohibited behavior to the Human Resources Investigation Unit pursuant to this Personnel Rule 1.1.6 may be subject to discipline, up to and including termination from employment.

2. In addition to possible discipline pursuant to Personnel Rule 1.1.6 (B)1, supported instances for which a management representative had knowledge of the alleged prohibited behavior but did not promptly ensure it was reported shall result in the notation in the management representative's own personnel file of the failure to report. Depending on other factors contributing to why the management representative failed to report the prohibited behavior, such individual may also be subject to loss of discretionary compensation or opportunities, such as merit leave or discretionary pay increases, as appropriate.

### **1.1.7 Responsibilities of the Human Resources Investigation Unit and Other Investigators**

A. The Human Resources Investigation Unit shall receive and act on reports of prohibited behavior from employees, management representatives, and others consistent with this Personnel Rule 1.1.7.

B. The Human Resources Investigation Unit shall oversee or investigate allegations of prohibited behavior. In some cases, it may be appropriate for an outside investigator to complete the investigation. Investigations shall commence as soon as practicable.

C. The investigator shall complete the investigation as soon as practicable, while ensuring that the investigation is fair, impartial, and reasonably thorough.

1. The investigation shall typically include an intake process, which may help inform whether additional investigation is required.
2. The investigator should inform the reporter of the status of the investigation at least every two weeks. The investigator and the reporter may mutually agree to a status updates of a different frequency.
3. The investigator shall complete the investigation as soon as possible. The investigator shall strive to complete the investigation within 90 days from when the report was received; however, certain circumstances may require more time to ensure a thorough investigation.
4. The investigator shall comply with an employee's right to union representation if any, and may permit other individuals to accompany the employee depending on the circumstances.
5. The investigation shall include interviews with the employee reporting the behavior, the subject of the allegation, and any other person(s) whom the investigator has reason to believe has information directly related to the alleged behavior or investigation thereof. The investigator may, but is not required to, interview witnesses suggested by the reporter or the subject. The investigation may also include review of other relevant information pertaining to the allegation.
6. The investigator shall maintain records of the investigation and prepare and provide a written report of the investigation to the appointing authority or designee, the reporter, and the subject. Such reports may be redacted for internal use as needed to protect privacy and avoid undue workplace disruption.

D. Investigations and reports of prohibited behavior shall be kept confidential to the extent allowable by law, or as needed to carry out the purpose of this Personnel Rule.

E. To avoid duplication of efforts or otherwise conserve City resources, the Human Resources Investigation Unit or department overseeing the investigation may suspend or close an investigation for any reason that does not conflict with this Rule, including the reason that the reporter is actively pursuing the same matter in another forum or has agreed to participate in a mediation of the matter.

F. The Human Resources Investigation Unit shall receive and compile data on supported and unsupported reports of prohibited behavior from departments subject to this Rule, for the purposes of understanding and tracking trends across the City, and advising departments on the consistent administration and discipline in response to supported prohibited behavior.

G. The Human Resources Investigation Unit shall publicize and make available an annual report of which will at a minimum include:

1. The number of reports by category (discrimination, harassment, misconduct, etc) made by employees or management representatives,
2. The number of reports that were supported and unsupported, and
3. Actions taken as reported by departments, including disciplinary action taken, if any.

### **1.1.8 Responsibilities of Appointing Authorities**

A. Appointing authorities shall determine the appropriate resolution for supported prohibited behavior, including disciplinary action.

Before making the decision to impose disciplinary action, the appointing authority (or designated management representative) shall ensure that the employee being considered for discipline

1. Has been given the opportunity to review the results of the investigation,
2. Has been told of the evidence obtained, and
3. Has had an opportunity to provide the appointing authority a response to the outcome of the investigation. The appointing authority shall take the employee's response into account before taking final action on the report.

B. In addition to disciplinary action taken, the appointing authority (or designated management representative) shall note in the employee's personnel file the supported prohibited behavior.

C. Appointing authorities or their designee shall report actions taken to resolve any supported or unsupported prohibited behavior to the Human Resources Investigation Unit. The purpose of providing such information is to track citywide trends on prohibited behavior to meet the requirements of Personnel Rule 1.1.7(F) and (G).