

**Non-Retaliation Policy****1.1.4****PURPOSE**

The City of San José is committed to providing a workplace conducive to open discussion of the City's business practices. The purpose of this policy is to reassure City employees that they can raise workplace concerns regarding alleged violations of City policy or local, State or Federal law without retaliation.

**SCOPE OF APPLICATION**

This policy prohibits City officials, officers, employees, or contractors from retaliating against applicants, officers, officials, employees, or contractors because of any of the protected activity as defined below.

**POLICY**

City employees are expected and encouraged to promptly raise questions and concerns regarding possible violations of City policy or local, State or Federal law with his/her immediate supervisor or another management employee within the employee's department. Promptly raising questions and concerns allows the opportunity for such concerns to be addressed quickly and can help prevent problems from occurring or escalating. In the event that an employee is not comfortable with raising an issue with his/her immediate supervisor or another management employee in the employee's department, or if the employee believes that an important issue remains unresolved, employees can contact the City Manager's Office of Employee Relations. Complaints and concerns are accepted in person and by telephone, email, and regular mail and can be anonymous. For more information, please contact the Office of Employee Relations at 535-8150, via email at [employee.relations@sanjose.gov](mailto:employee.relations@sanjose.gov) or by visiting the Employee Relations intranet site (<http://www.sjcity.net/index.aspx?nid=259>). Employees are also free to file a complaint with the appropriate outside agency.

It is the policy of the City to prohibit the taking of any adverse employment action against those who in good faith report or participate in investigations into complaints of alleged violations of City policy or local, State or Federal law in retaliation for that reporting or participation. (Refer to definitions of "protected activity" and "adverse employment action" below.)

No officer or employee of the City shall directly or indirectly use or attempt to use the authority or influence of such officer or employee for the purpose of intimidating, threatening, coercing, directing or influencing any person with the intent of interfering with that person's duty to disclose alleged violations of City policy or local, State or Federal law.

Disciplinary action, up to and including termination, will be taken against an employee who is found to have violated this Non-Retaliation Policy, and any contractor who violates this policy will be subject to appropriate sanctions. However, employees who file reports or provide evidence which they know to be false or without a reasonable belief in the truth and accuracy of such information will not be protected by this policy and may be subject to disciplinary action, including termination.

**Non-Retaliation Policy****1.1.4****DEFINITIONS**

I. **“Protected activity”** includes but is not limited to the following:

1. Making or filing an internal complaint with the City regarding alleged violations of City policy, local, State or Federal law
2. Providing informal notice to the City regarding alleged violations of City policy, local, State or Federal law
3. Participation in investigations and in court/administrative hearings regarding alleged violations of City policy, local, State or Federal law
4. Filing a complaint with a Federal or State enforcement or administrative agency
5. Disclosing information to a government or law enforcement agency where an employee has reasonable cause to believe that the information discloses a violation of State or Federal statute, or a violation or noncompliance with a State or Federal rule or regulation
6. Participating in or cooperating with a Federal or State enforcement agency that is conducting an investigation of the City regarding alleged unlawful activity
7. Reporting conflicts of interest, dishonesty or unethical conduct
8. Calling an internal or outside governmental agency’s “Whistleblower hotline”
9. Associating with another employee who is engaged in any of the protected activities enumerated here

II. **“Adverse Employment Action”** may include, but is not limited to, any of the following:

1. Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of protected activity
2. Denying promotion to an individual because of protected activity
3. Taking any form of disciplinary action because of protected activity
4. Extending a probationary period because of protected activity
5. Altering work schedules or work assignments because of protected activity

**COMPLAINT PROCEDURES**

An applicant, employee, officer, official, or contractor who believes he or she has been retaliated against in violation of this Policy should immediately report the conduct to the applicable

**Non-Retaliation Policy**

**1.1.4**

Department Director or to the City Manager’s Office of Employee Relations. Department Directors who receive complaints regarding alleged retaliation must immediately notify the Office of Employee Relations.

Approved:

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/s/ Alex Gurza  
Director of Employee Relations

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2/28/2005  
Date