



**Administrative Regulations
Office of the Mayor**

Title: ANTI-RETALIATION

A.R. Number: 4.21 Effective Date: February 24, 2021 Page: 1 of 4

Supersedes: Anti-Retaliation Policy A.R.: 4.21 DATED: October 1, 2011

I. PURPOSE

The purpose of this policy is to ensure the City of Richmond (City) prohibits retaliation against those who report, oppose, or participate in the investigation of alleged wrongdoing in the workplace.

II. POLICY

The City is committed to complying with all laws and to providing a workplace conducive to open discussions of its policies and practices. The City encourages its employees to make good faith inquiries regarding conduct they believe may be unethical and/or illegal, and to disclose work-related misconduct. Retaliation as a response to such inquiries or disclosures constitutes a serious violation of City policy and will not be tolerated.

III. PROCEDURES

A. Unacceptable Behaviors or Conduct

1. Retaliation may take many forms and may include, but is not limited to:

- a. Discrimination, harassment, including sexual harassment, and all other harassment/discrimination categories based on: race and on the basis of race, including traits historically associated with race, including hair texture, hair type, and protective hairstyles such as braids, locks, and twists; national origin, age, gender, sex, sexual orientation; gender identity; pregnancy, childbirth, or related medical conditions, including lactation; disability, and religion, citizenship status, genetic information, veteran status, or membership in any other protected group.
- b. Health and safety issues
- c. Workers compensation claims
- d. Unemployment Hearings
- e. Whistleblower status
- f. Refusal of law, code of ethics or policy violations
- g. Violations of the Fair Labor Standards Act.
- h. Discharging, disciplining, threatening, discriminating against, penalizing, or taking any other retaliatory action against an employee regarding the employee's compensation, terms, conditions, locations, or privileges of employment because the employee:



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A.R. Number: 4.21 **Effective Date:** February 24, 2021 **Page:** 2 of 4

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- (i) Reports a violation of any federal or state law or regulation to supervisor or to any governmental body or law-enforcement official
- (ii) Is requested by a governmental body or law enforcement official to participate in an investigation, hearing, or inquiry
- (iii) Refuses to engage in a criminal act that would subject the employee to criminal liability
- (iv) Refuses an employer's order to perform any action that violates any federal or state law or regulation and the employee informs the employer that the order is being refused for that reason
- (v) Provides information to or testifies before any governmental body or law-enforcement official conducting an investigation, hearing, or inquiry into any alleged violation by the employer if federal or state law or regulation.
- (vi) Has filed any complaint or instituted or caused to be instituted any proceeding related to the failure to pay wages, or has testified or is about to testify in any such proceeding.
- (vii) Has reported or plans to report to an appropriate authority, or any officer or agent of the employer, has failed to properly classify an individual as an employee and failed to pay required benefits or other contributions
- (viii) Is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry by an appropriate authority or in a court action.

The provisions in (vii) and (viii) above only apply if an employee or who discloses information about suspected worker misclassification has done so in good faith and upon a reasonable belief that the information is accurate. Disclosures that are reckless or the employee should have known were false, confidential by law, or malicious are not deemed good faith reports and are not subject to the above-referenced protections.

2. No employee shall retaliate against another person in whole or in part because he has disclosed alleged wrongful conduct to a public body or to a supervisor or other City officials. Any employee who is found to be in violation of this policy shall be subject to disciplinary action up to and including termination.

B. Reporting Procedures

In addition to the avenues of redress available through the U.S. Equal Employment Opportunity Commission, effective relief may also be available within City government through the Department of Human Resources (HR). Classified City employee may also participate in the City's grievance process.

When appropriate, informal means to resolve retaliation complaints will be taken. When a retaliation complaint cannot be resolved informally, a written report of the investigation and recommendations of further action is prepared and delivered to the agency director. Recommendations can include discipline for violators and the restoration of any employment



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A.R. Number: 4.21 **Effective Date:** February 24, 2021 **Page:** 3 of 4

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terms, conditions or opportunities that employees or applicants lost or were denied because of discrimination or harassment.

C. Investigations

Please refer to *Administrative Regulation 4.23 – Investigation (Complaint) Policy* for detailed procedures on filing a complaint and the respective investigation process.

IV. RESPONSIBILITIES

The City and its agents have a duty to promptly investigate allegations of retaliation and, when appropriate, take corrective actions.

A. Responsibilities of Management

Management must ensure distribution of this official policy to all City employees. All management staff within the City has a responsibility to address violation(s) of this official City policy. Any management team member who fails to appropriately address violation(s) of this policy or who fails to take appropriate corrective action shall be in violation of this policy and subject to disciplinary action, up to and including termination.

B. Responsibilities of the Department of Human Resources

The Department of HR shall be responsible for updating and providing on the implementation of this policy; the development and the implementation of on-going training and education programs to ensure that all City employees clearly understand that retaliation is not tolerated in the workplace.

V. DEFINITIONS

The following words and terms, when used in conjunction with the City's Anti-Retaliation Policy, shall have the indicated meanings:

Retaliation - Defined as an adverse employment/job action or conduct directed against an employee or other person(s) for engaging in a protected activity. Adverse employment action includes that which:

- A. Is calculated to deter or punish an employee or other person from engaging in a protected activity; or
- B. Is in response to an employee or other persons who have engaged or is engaging in a protected activity.

Protected Activity - A good faith disclosure opposing an unlawful practice prohibited by employment discrimination laws; participating in an investigation, proceeding or Hearing of an Equal Employment Opportunity Charge.



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Adverse Employment/Job Action - An employer's action that affects an employee's job negatively. Losses of pay, termination, or demotion are all examples of adverse employment/job actions. Lesser actions, such as a poor evaluation or changes in job responsibilities that do not result in loss of pay or benefits are not classified as adverse job actions.

VI. AUTHORITY

Title VII, Civil Rights Act, as amended
Age Discrimination Employment Act, as amended
Americans with Disabilities Act, as amended
Equal Pay Act
Fair Labor Standards Act
Immigration Reform and Control Act
Civil Rights Act of 1866
Genetic Information Nondiscrimination Act
VA §40.1-33.1
VA §40.1-27.3

VII. REGULATION UPDATE

The Department of Human Resources shall be responsible for modifications to this Policy.

RECOMMEND APPROVAL:

J.E. Lincoln & Sample 2-24-21
CHIEF ADMINISTRATIVE OFFICER/DESIGNEE

APPROVED:

[Signature] *2/24/2021*
MAYOR