


Policy Title:		Anti-Retaliation	
	OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER	Category	Anti-Retaliation
		Administrative Policy #	
		Revision #	
		Review Frequency	As Needed – no less frequently than triennially
Administrative Division	Human Resources	Reviewed By	Chief Administrative Officer, General Counsel, Human Resources Director
BOWC Approval		Last Reviewed/Update Date	
Implementation Date			

## 1. AUTHORITY

1.1. Detroit Water and Sewer Department (DWSD) employees are protected from retaliatory acts through various laws, including but not limited to:

- 1.1.1. Sections 7 & 8 of the National Labor Relations Act of 1935 (Wagner Act)
- 1.1.2. Title VII of the Civil Rights Act of 1964
- 1.1.3. The Age Discrimination in Employment Act of 1967
- 1.1.4. The Americans with Disabilities Act of 1990
- 1.1.5. Equal Employment Opportunity Laws
- 1.1.6. Elliott-Larsen Civil Rights Act, MCL 37.2101, et seq.
- 1.1.7. Persons with Disabilities Civil Rights Act, MCL 37.1101, et seq
- 1.1.8. Whistleblower Protection Act, 5 U.S.C. 2302(b)(8)-(9) and MCL 15.361, et seq

## 2. OBJECTIVE

2.1. To protect DWSD employees from retaliatory behavior in the workplace and provide procedural guidelines regarding reports of retaliatory behavior.

## 3. PURPOSE

3.1. DWSD shall provide a safe and collaborative work environment free from retaliation. DWSD shall practice this policy in conjunction with the Ethics Policy and the Anti-Discrimination and Harassment-Free Workplace Policy.

## 4. DEFINITIONS

“Adverse Employment Action” means an action that negatively affects an employee’s terms and conditions of employment. Examples of adverse actions include, but are not limited to: firing or laying off, demoting, denying overtime or promotion, disciplining,

denying benefits, failing to hire or rehire, intimidation, making threats, blacklisting, reassignment to a less desirable position, actions affecting prospects for promotion, and reducing pay or hours.

“Harassment” is unwelcome conduct that has the purpose or effect of substantially interfering with an individual’s employment.

“Complaint” means any mention of prohibited conduct that is suspected or perceived to be harassment or retaliation by Management.

“Management” means DWSD employees, including members of Executive Management, who exercise management authority and responsibility in each division for work groups, supervisors and/or employees.

“Retaliation” or “Retaliate” means to take adverse employment action against an employee who makes a complaint.

## **5. SCOPE**

- 5.1. This policy applies to all DWSD employees, contractors, student interns, and all other persons employed by DWSD.

## **6. RESPONSIBILITIES**

### **6.1. Human Resources**

- 6.1.1. The Human Resources Director publishes this policy; communicates this policy to all employees; reviews, approves and publishes divisional standard operating procedures; and updates this policy as necessary.
- 6.1.2. Human Resources determines appropriate consequences, up to and including termination, for any employee who retaliates against or who violates the confidentiality of an employee who has reported alleged misconduct.

### **6.2. Management**

- 6.2.1. Management should be familiar with, understand, and act in full compliance with this policy.
- 6.2.2. Management should be educated and aware of potential signs of retaliatory behavior.
- 6.2.3. Management responds appropriately to any suspected or identified retaliation. This duty exists even if: (a) employee does not register a complaint; (b) the employee reporting retaliation requests that no investigation occur; (c) the employee reporting retaliation was not a direct or intended target of the retaliation; or (d) the employee situation giving rise to the retaliation complaint has been resolved.
- 6.2.4. Management initiates appropriate action through elevation and notification of reported or alleged retaliation to Human Resources. Failure of Management to report such allegations to Human Resources shall be subject to disciplinary action, up to and including immediate termination.
- 6.2.5. Management cooperates in any retaliation investigation. Failure to cooperate in an investigation may result in disciplinary action, up to and including termination.

### **6.3. Employee**

- 6.3.1. Employees should be familiar with, understand, and act in full compliance with this policy.
- 6.3.2. Employees who suffers or witnesses retaliation should report the incident to Management and/or Human Resources.
- 6.3.3. Employees shall cooperate with any retaliation investigation. Failure to cooperate in an investigation may result in disciplinary action up to and including discharge.

## **7. POLICY**

### **7.1. Anti-Retaliation Commitment**

- 7.1.1. DWSD is committed to maintaining a culture that encourages and supports positive and collaborative work environments. DWSD will not tolerate retaliation.
- 7.1.2. DWSD Management, employees or contractors shall not retaliate against any individual who makes a complaint related to ethics, discrimination, misconduct, non-adherence to DWSD policy, sexual harassment, harassment, or any actual or suspected violation of law.

### **7.2. False Accusations**

- 7.2.1. It shall be a violation of this policy to make a complaint of retaliation with knowledge of its falsity.

### **7.3. Investigations**

- 7.3.1. DWSD may find it necessary to investigate employees where behavior or other relevant circumstances raise legitimate questions concerning workplace retaliation. Human Resources and/or General Counsel will conduct an investigation to substantiate whether retaliation occurred.

### **7.4. Confidentiality**

- 7.4.1. All complaints, reports of non-adherence to policies, misconduct, and investigations are treated confidentially to the extent possible, and information is disclosed strictly on a need-to-know basis. Depending on the charge, the identity of the complainant may be revealed to the parties involved during the investigation, and Human Resources will take adequate steps to ensure that the complainant is protected from retaliation during and after the investigation. All information pertaining to a complaint or investigation under this policy will be maintained in secure files within Human Resources.

### **7.5. Reporting**

- 7.5.1. DWSD will not delay or discourage any employee from reporting a retaliation complaint.

### **7.6. Legal Representation**

- 7.6.1. DWSD employees may have legal representation at an investigative meeting at their own personal cost.

- 7.6.2. Employees who suffered alleged retaliation may pursue formal legal remedies or resolution through local, state or federal agencies or the courts.

#### **7.7. Reasonable and Necessary Accommodations**

- 7.7.1. Management may take reasonable and necessary actions to accomplish the intent of this policy.

### **8. PROCEDURE**

#### **8.1. Complaint and Reporting Process**

- 8.1.1. Employees are encouraged to first speak to their manager or supervisor to report incidents of retaliation.
- 8.1.2. If speaking to a manager or supervisor is impracticable or does not yield a response, employees are encouraged to utilize DWSD's Ethics Hotline or Complaint Resolution Process to report incidents of retaliation.
- 8.1.3. Any supervisor or manager who suspects or becomes aware that retaliation has occurred, or is occurring in the workplace, must immediately report the incident to Human Resources for investigation.
- 8.1.4. Any supervisor or manager receiving a complaint or report of retaliation should inform the person making the report that: (a) DWSD takes such matters seriously and has a legal obligation to investigate; (b) all efforts will be made to maintain confidentiality; and (c) information about the investigation will be released only on a need-to-know basis or when required by law.

#### **8.2. Investigation**

- 8.2.1. Human Resources will promptly determine the approach of the investigation. This assessment will vary depending upon the nature of the reported incident, its formality and complexity, the number of potential witnesses and the seriousness of the allegations.
- 8.2.2. Human Resources will make an initial determination whether the alleged conduct constitutes retaliation. If it is determined the conduct is not retaliatory, Human Resources and Management will notify the reporting party.
- 8.2.3. If it is determined that the alleged conduct constitutes retaliation or possible retaliation, Human Resources and/or General Counsel will conduct an investigation. During this time, involved parties may be temporarily reassigned pending completion and results of the investigation.

#### **8.3. Disciplinary Action**

- 8.3.1. Employees who violate this policy are subject to disciplinary action, up to and including termination. Human Resources and General Counsel will confer prior to implementing disciplinary action.