

**BOROUGH OF MACUNGIE
COUNCIL POLICY**

SUBJECT: Citizen Complaint Investigation - Non-Uniform Employees
POLICY NO.: 0003
EFFECTIVE DATE: June 6, 2011

Background:

The Borough strives to maintain quality of services, improve relationships between employees, Council members, Mayor and the citizens. It is the policy of the Borough to accept, investigate, and resolve citizen complaints. When appropriate, effective action will be taken to address and correct the complaint.

Purpose:

The purpose of this Policy is to establish the procedure used to investigate complaints against employees. It supports the Borough's Policy to document thorough and objective investigations and provide timely disposition of all complaints or allegations.

Scope:

This Policy establishes the procedure by which the Borough investigates complaints against Borough employees. This policy is not intended to conflict in any way with provisions of the Teamsters Collective Bargaining Agreement, including grievance and dispute procedures and disciplinary procedures. This policy applies to all complaints received by the Borough from members of the public and includes complaints relating to employees working for the Borough of Macungie. Upon adoption by Borough Council this policy shall be made part of the Employee Handbook.

Policy:

It shall be the policy of the Borough of Macungie that all complaints and allegations against employees shall be investigated in accordance with this policy.

A. Complaints/Allegations

1. All complaints shall be received and recorded in accordance with Macungie Borough Policy. Any employee receiving a complaint shall inform the Borough Manager or Council President of the complaint immediately.
2. The Borough Manager/Council President*, upon receipt of a complaint, will immediately send a letter to the complainant, if known: acknowledging receipt of the complaint, that the complaint will be investigated and that the investigator may make contact in the near future.
3. If the complaint is about a specific employee, the complaint will be forwarded to

* Only if the complaint is about or refers to the Borough Manager, see Section A(3).

the employee's direct supervisor. In the case of a complaint about the Borough Manager, the complaint will be forwarded to Borough Council. If the complaint is about a department head, the complaint will be forwarded to the Borough Manager.

4. A thorough and objective investigation of any complaint or any allegation will be initiated. The type of complaint/allegation shall determine the nature and complexity of the investigation.
5. If at all possible the Borough Manager/Council President* will meet with the complainant to discuss the complaint/allegations.
6. The Borough Manager/Borough Council will meet with the employee to discuss the complaint/allegations and receive their input on the complaint/allegations. If the subject employee is a member of the union, he/she shall be advised of their right to have a union representative attend this interview.
7. The Borough Manager/Council President* shall document the facts of the investigation.
8. If legal counsel is required, Borough Council will be notified prior to consulting the Solicitor.
9. If disciplinary action is required, the disciplinary procedures laid out in the employee handbook will be followed.
10. Upon completion of the investigation, a letter approved by Borough Council and signed by the Borough Manager/Council President* will be sent to the complaining party (if known) informing him/her an investigation was conducted as per Borough policies and that the matter was handled appropriately.
11. If the investigation concludes that the conduct of the employee was improper, the Borough Manager/Council shall cite the rule, regulation or order which was violated if applicable. The investigator shall note any mitigating circumstances surrounding the situation, such as unclear or poorly drafted policy, inadequate training or lack of proper supervision.

B. Employee Responsibilities

The employee against whom the complaint/allegation has been filed shall not interfere in any manner whatsoever with the investigation or attempt to persuade the complainant and any witnesses who have been contacted during the investigation in an effort to alter the information to the investigator. The employee may be ordered by the investigator not to have contact with any witnesses until the Borough has obtained further information from that complainant and any witnesses. If the alleged offense is of sufficient seriousness, the Borough may suspend the employee pending the outcome of the investigation. In such instances, the suspension will be

* Only if the complaint is about or refers to the Borough Manager, see Section A(3).

un-paid. If the result of the investigation is anything other than “sustained”, then the employee shall receive back pay for the entire period of the suspension.

C. Supervisor’s Responsibilities

A supervisor who personally observes subordinate employee misconduct has the responsibility and authority:

1. If the misconduct is minor, ex. a minor mistake, departure from procedure, or the exercise of inappropriate judgment, to take immediate corrective action in the form of counseling.
 - a. If that action is taken, the Borough Manager shall be notified.
2. If the supervisor believes that the nature of the misconduct warrants more severe disciplinary action, a memorandum detailing the alleged misconduct shall be submitted to the Borough Manager.
3. A supervisor who has just cause, ex. a violation of the law or the subordinate employee reports to work under the influence of any drug or alcohol, shall immediately notify the Borough Manager, who will notify the Council President of the situation and any action taken. Any action taken will be in accordance with the procedures established in the employee handbook. A written complaint, prepared by the supervisor, shall be immediately forwarded to the Borough Manager no later than the end of the next business day.
4. If an employee has been relieved from duty, the employee will be notified by the Borough Manager when they are permitted to return to duty.

D. Disposition of Complaint/Allegations

1. Based on the facts of the investigation, the Borough Manager/Council will make a final disposition and/or recommendation on the matter and will impose disciplinary action, if warranted. If suspension or termination is deemed appropriate by the Borough Manager that recommendation will be taken to Borough Council for action. The final disposition shall be noted by using one of the following classifications:
 - a. Sustained: Investigation indicates that all or part of the alleged acts of misconduct were committed by the employee. This includes misconduct not alleged in the original complaint that was uncovered during the investigation.
 - b. Not Sustained: Investigation disclosed insufficient evidence to clearly prove or disprove the allegations.
 - c. Exonerated: Investigation discloses that the alleged act(s) occurred but the actions of the employee were justified, legal and proper.
 - d. Unfounded: Investigation indicates the alleged acts did not occur or, were not

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committed by an employee of this department.

- e. Policy Failure: The alleged act occurred or is true and although the action of the employee was consistent with department policy, the complainant suffered harm. After this determination is made, corrective action will be taken, i.e. modify policy, training, etc.

The disposition of complaints/allegations sustained may include the counseling, remedial training, reprimand, suspension and/or termination.

2. The Borough Manager will maintain a record of all complaints against this Borough or employees in a secure area.
3. Borough Council will receive a copy of all complaints and the final disposition upon completion of investigation.

History:

Adopted: June 6, 2011