

I. Purpose

This policy establishes a procedure to protect the due process rights of Town employees by providing an opportunity for a Name-Clearing Hearing when the Town makes, or is alleged to have made, stigmatizing statements in connection with an employee's separation from employment. The goal is to ensure compliance with the Fourteenth Amendment to the U.S. Constitution, relevant Federal and State Law, and to preserve both employee rights and the Town's integrity.

II. Legal Background

1. Under the Fourteenth Amendment, public employees have a protected liberty interest in their good name, reputation, honor, and integrity.
2. A right to a Name-Clearing Hearing arises when:
 - The Town makes or places into an employment record stigmatizing statements (e.g., allegations of dishonesty, immorality, criminal conduct, or similar charges that could harm the employee's reputation);
 - Such statements are **false** or **disputed** by the employee; and
 - The statements are made public or are reasonably likely to be disclosed to prospective employers (see *Board of Regents v. Roth*, 408 U.S. 564 (1972); *Sciolino v. City of Newport News*, 480 F.3d 642 (4th Cir. 2007)).
3. North Carolina law follows this principle (see *Moore v. City of Creedmoor*, 345 N.C. 356 (1997)).

III. Scope

This policy applies to all Town employees, including full-time and part-time who separate from employment through resignation, termination, or non-renewal.

IV. Definitions

- **Stigmatizing Statement:** A statement by the Town that accuses an employee of dishonesty, immorality, criminal behavior, or other conduct that could seriously damage their standing or foreclose future employment opportunities.
- **Public Dissemination:** Any intentional or likely disclosure of stigmatizing information to persons outside the Town organization, including placement in a personnel file accessible to prospective government employers.

- **Name-Clearing Hearing:** An opportunity for the employee to present evidence, refute stigmatizing charges, and make a statement for the record.

V. Policy

1. An employee who believes that stigmatizing and/or false statements have been made public or placed in their personnel record in connection with separation from the Town may request a name-clearing hearing.
2. The hearing is not a grievance or appeal of termination; it does not determine reinstatement, discipline, or damages. Its sole purpose is to allow the employee to clear their name.
3. The Town will provide such a hearing in a timely and fair manner upon request.

VI. Procedure

1. Request for Hearing

- The employee must submit a written request to the Town Manager (or designee) within 30 calendar days of learning of the alleged stigmatizing statement.
- The request must specify the statement(s) the employee contends are false and stigmatizing.

2. Review of Request

- The Town Manager (or designee) will determine whether the allegations, if true, implicate a liberty interest under applicable law.
- If so, a hearing will be scheduled. If not, the employee will be notified in writing with an explanation.

3. Scheduling

- A hearing will be scheduled within 45 calendar days of the request, unless extended for good cause.
- The employee will receive written notice of the time, place, and procedures of the hearing.

4. Conduct of the Hearing

- The hearing is informal and non-adversarial.

- The panel to preside over the hearing will consist of: 1) The Town Manager (or designee not directly involved in the underlying matter), 2) The Mayor (or designee not directly involved in the underlying matter), 3) Town Attorney, 4) a person appointed by the Town Manager.
- The employee may be represented by legal counsel or another representative of their choice.
- The employee may present documents, witnesses, or other evidence to refute the stigmatizing charges.
- The Town may present relevant evidence but is not required to prove the underlying charges.
- The proceedings will be audio recorded or summarized in writing to create a record.

5. Outcome

- Following the hearing, the presiding officer will prepare a brief written statement summarizing the proceedings and noting that the employee was given the opportunity to respond.
- A copy of this summary, along with any statement the employee wishes to provide, will be placed in the employee's personnel file.
- No employment action (reinstatement, compensation, damages) will be ordered as part of this hearing.

VII. Confidentiality

Personnel files remain confidential under North Carolina law (N.C. Gen. Stat. § 160A-168), except for public records required by statute. However, the hearing record and the employee's statement will be retained as part of the personnel record.

VIII. Non-Retaliation

The Town prohibits retaliation against any employee for requesting or participating in a name-clearing hearing.

IX. Effective Date

This policy shall take effect on October 14, 2025 and shall be incorporated into the Town's personnel policy manual.

