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# Sample Anti-Harassment and Bullying Institutional Policies:

A resource supporting the  
*2022 ACC Health Policy Statement on Building Respect, Civility, and  
Inclusion in the Cardiovascular Workplace*

## Introduction

These sample institutional policies are offered as an accompanying resource for individuals and institutions who are seeking to understand the 2022 ACC Health Policy Statement on Building Respect, Civility, and Inclusion in the Cardiovascular Workplace and apply its principles and recommendations in their workplace. These anonymized policies are adapted from actual policies currently in place at several U.S. institutions and are intended to guide the development of organization-specific policies rather than as models for adoption. We have used institution, university, and other similar words as a place holder for an organization's name or components wherever this appeared in the original document.

## Disclaimer

These sample policies are provided for informational purposes only and do not provide legal advice; please consult with your own counsel for legal guidance on compliance with applicable laws and regulations. Further, please consult with your human resources, legal, management, and other advisors before adopting or adapting policies set forth here or in the parent document.



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Policies on

# General Employee Behavior



## 1. Mutual Respect Policy

### Scope

Applies to all employees, including Physician Staff, Allied Health Employees, Residents, Fellows, and employed Research Temporary Professionals when interacting with the hospital community.

### Purpose

To ensure a healthy work environment of mutual respect by promoting a spirit of professionalism, teamwork, cooperation, and inclusion among all people, in support of institutional values.

### Policy

- Mutual respect, consideration, and courtesy are a tradition and expected of all employees who work, study, or conduct business within the *organization*.
- The *institution* will not tolerate conduct or behavior that adversely impacts its ability to execute its mission.
- All employees are expected to respect others' differences and promote an atmosphere of equal employment opportunity.
- Each employee must share the responsibility of creating and maintaining an environment that encourages mutual respect and promotes civil and congenial relationships by treating others in our diverse community with respect, honesty, consideration and cooperation.
- The *institution* will not tolerate disrespectful behavior of any kind toward or between co-workers, patients, volunteers, contractors or visitors.
  - Disrespectful behavior can be sexual in nature or any other form, to include harassment, ranging from inappropriate humor and subtle hints to overt acts, threats, acts of violence, abusive, derogatory comments, physical contact, or any related conduct. Everyone has the right to work or pursue his/her education or conduct business in an environment free from these behaviors.
  - The *institution* will not tolerate disrespectful behavior of any kind based on any characteristic protected under applicable state, federal or local law.





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## Inclusive Language

- Employees must use inclusive language in written, verbal, and electronic communications with each other and with patients and visitors.
- Employees are expected to avoid language that creates, suggests, and/or reinforces negative stereotypes about particular groups of people.

## Informal Resolution

- Employees who feel that disrespectful behavior has occurred are encouraged to inform the other person of the effect of their behavior, if appropriate for the circumstance. It should be communicated either verbally or in writing that the behavior was offensive and must stop.

## Reporting

- Reporting may occur verbally and/or in writing at any point in time.
  - Employees are not required to attempt an informal resolution before reporting a Mutual Respect violation.
- To make a report:
  - Employees should report concerns to their immediate supervisor or other management personnel, the *institution* Compliance Hotline, or HR.
  - Physician Staff can contact the *institution office*.
- Supervisors or management must report concerns immediately to their next level of management or to HR.
- The *institution* will investigate all reports thoroughly and take appropriate action, including possible disciplinary action up to and including termination of employment. The *institution* will respect the privacy and confidentiality of all people involved, to the extent possible.
  - The *institution* is obligated to investigate all reports and, as a result, may be required to disclose information to others as part of that investigative process.

## Retaliation

- The *institution* does not tolerate retaliation or intimidation toward a person who raises a mutual respect concern.
- Employees who have attempted informal resolution, have made a report or have participated in an investigation are encouraged to immediately make a further report



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if they are the subject of retaliation or intimidation, or if the disrespectful behavior recurs.

- The *institution* will investigate all reports of retaliation in a timely manner and take appropriate action to address any retaliatory behavior.



## 2. Unacceptable Conduct Policy

### Scope

Applies to all Physician Staff when fulfilling their responsibilities at the *institution*.

### Purpose

- To set expectations for acceptable conduct of the *institution* staff members.
- To define unacceptable and inappropriate behaviors.

### Policy

1. The *institution* staff members are expected to conduct themselves in accordance with the *institution's* professional standards. Furthermore, mutual respect and courtesy are traditional at the *institution* and staff members are expected to conduct themselves in a professional and cooperative manner. When staff members conduct themselves in ways incompatible with such standards, they may discredit the *institution* and their colleagues, and they may disrupt or compromise the quality and/or safety of patient care.
2. Corrective action may be necessary depending on the nature and severity of the unacceptable conduct, and administrative leave may be necessary pending investigation. (See Performance Improvement Policy).
3. Unacceptable conduct includes, but is not limited to the following examples:
  - a. Sexual harassment (See Sexual and Other Harassment Prevention Policy).
  - b. Unauthorized consumption of alcoholic beverages during or before periods of work or on the *institution's* property (See Substance Abuse and Drug/Alcohol Testing Policy).
  - c. Unauthorized or illegal dispensing, use or possession of drugs and other regulated substances (See Substance Abuse and Drug/Alcohol Testing Policy).
  - d. Behavior or behaviors that undermine a culture of safety, including verbal or non-verbal conduct which compromises quality of patient care, either directly or indirectly when it impedes the ability of other professionals to provide quality care (See 5 safe behaviors).



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e. Inappropriate behavior directed at employees, patients or their family members, visitors, colleagues, or others encountered in the performance of institutional responsibilities. Specific examples include, but are not limited to, the following:

- i. Disputes or a pattern of negative interactions.
- ii. Written or physical attacks, hostility, threats of violence or retaliation, or any statements or actions that go beyond the bounds of professional conduct and that do not align with institution's values and 5 safe behaviors.
- iii. Destructive criticism delivered in such a way as to belittle or imply incompetence.
- iv. Other conduct that indicates an inability to work harmoniously with others on a consistent basis.





## 3. Violence in the Workplace Policy

### Scope

Applies to all personnel who encounter a violent act or a threat of a violent act involving any adult, adolescent, or child.

### Purpose

To ensure personnel have a clear understanding of what constitutes workplace violence and duty to report.

### Policy

Threats, threatening behavior, acts of violence, or any related conduct which disrupts work performance or the *institution's* ability to carry out its mission will not be tolerated.

- Unwelcome physical contact between two or more individuals is prohibited. Examples include, but are not limited to:
  - Hitting, slapping, poking, or shoving an individual.
  - Spitting on an individual.
  - Throwing bodily fluids or other objects at an individual.
- Verbally abusive behaviors through any mode of communication (e.g., in person, telephone, letter, email, text) are prohibited.
- Intentionally destroying or threatening to destroy personal or the *institution's* property through physical means is prohibited.
- Harassing surveillance/stalking is prohibited.
- Physical violence or threats resulting in fear of bodily injury between two or more individuals must be reported to the work area supervisor and security.
  - For sites with no security presence, contact your security department.
  - For emergency situations at locations with no onsite security presence, local law enforcement should be contacted.
- Security will investigate all reports of workplace violence.
- An employee who obtains, or is named in, an Order for Protection or Harassment Restraining Order which lists the *institution's* premises as a protected area, is required to provide a copy to the security office.



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- State law may require that an employee have a copy of the order on them at all times.
- Supervisors will accommodate personnel work modifications, where possible, to minimize contact per Order for Protection or Harassment restraining order.



## 4. Significant Personal Relationships in the Workplace Policy

### Scope

Applies to all employees, including Physician Staff, Allied Health Employees, Residents, Fellows, and employed Research Temporary Professionals when fulfilling responsibilities assigned to them by the *institution*.

### Purpose

To distinguish the *institution* with a strong culture of professionalism, respect, and teamwork.

To establish expectations and requirements for when employees at the *institution* are in significant personal relationships. Relationships and camaraderie among colleagues reflect commonalities, mutual interests, similarities about career choices, and positively affects workplaces. However, at the same time, significant personal relationships can and occasionally do contribute to perceived or actual personal relationships conflicts and/or unhealthy work environments. It does not preclude the existence of significant personal relationships between employees; rather it establishes boundaries as to how employees involved in significant personal relationships conduct themselves in the *institution's* work environment.

### Policy

- The *institution* acknowledges the existence of significant personal relationships in the workplace, allows for the existence of friendships, and does not prevent romantic or sexual relationships among co-workers and colleagues.
- The *institution* expects its employees to establish and adhere to clear professional boundaries as to their personal and business interactions.
- Significant personal relationships must not interfere with a professional and harmonious team work environment, create real or perceived personal relationship conflicts, or otherwise negatively interfere with the *institution's* work. Behavior that arises out of significant personal relationships that adversely affects the workplace will be addressed.
- The *institution* works to ensure significant personal relationships do not:



- Create a real or perceived personal relationship conflict or favoritism in the employment setting; including, but not limited to, hiring, work assignments, and misuse of authority,
- Lead to any type of harassment situations, particularly if the relationship ends, and/ or
- Promote/create distraction and disruption in the workplace.
- Conflicts of interest may include, but are not limited to, situations involving supervisory influence (i.e. a person who influences hiring, promotion, transfer, retention, compensation, performance, assignments or other working conditions of another person).
- Employment of two or more employees in a significant personal relationship in the same work unit is not prohibited at the *institution* but must be deliberately and carefully managed.
- Significant personal relationships involving faculty and students/learners are prohibited and are governed by the Title IX Sexual Misconduct Policy, the Faculty Misconduct Policy, and associated policies and procedures.

## Significant Personal Relationship Categories

This policy outlines three situations of employees in significant personal relationships at the *institution* 1) working at the *institution*, 2) working in the same work unit (e.g., department, division, or project) and 3) one person with supervisory influence over the other person. These three situations do not represent all of the relationships that could exist; other relationships should be discussed with departmental leadership and HR for guidance.

- In all situations, any conduct that exhibits a failure to set and maintain appropriate professional boundaries is prohibited at the *institution*. This includes, but is not limited to:
  - Physical contact at work.
  - Actions at work that are taken in furtherance of the relationship, and not part of an employee's regular job duties.
  - Conduct in or out of the workplace that brings personal conflicts or issues into the workplace in a manner that causes distraction or disruption to others in the work units.

### 1. Working at the *institution*. Establish and Maintain Professional Boundaries





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- If employees in a significant personal relationship are both employed by the *institution*, but not in the same work unit (e.g., department, division, project), they are expected to behave in a professional manner in the workplace by setting and maintaining clear boundaries between their personal and professional interactions while working at the *institution*.

## 2. Working in the Same Work Unit: Inform and Partner with Leadership

- Significant personal relationships are permissible within work units (e.g., department, division, project). However, given the risks of significant personal relationships between co-workers, the involved employees should proactively agree to their at-work behaviors during the relationship, as well as consider the at-work behaviors if the relationship ends. Additionally, the employees should disclose their relationship to their supervisor(s) who can partner with them on creating a solution to remove any conflicts of interest that may arise.
- It is the supervisor's responsibility, in partnership with department leadership, to determine the impact on the employees' work assignments and any impact to the unit. The supervisor/department leader may seek counsel from Human Resources, Personnel Committee, or the faculty office.
- If the conduct of people in significant personal relationships within the same work unit becomes detrimental to the productive functioning of the work unit, the supervisor should contact any of the resources cited above to review other options.
  - Options include, but are not limited to, one or both of the employees being transferred to an open position that may or may not be comparable, reassigned to a different person or persons for supervisory oversight, adjustment of responsibilities and/or shift. As a final remedy, if the former approaches are not successful at resolving the conflict, one or both employees may be provided a leave of absence to secure alternate job opportunities inside or outside of the *institution*.
  - Ultimately it is the employees' responsibility to identify another appropriate job opportunity for which they meet the qualifications.

## 3. Supervisory Influence over Another Person: Disclose to Leadership

- There is high risk of employees in significant personal relationships involving one person with supervisor influence over the other person; real or perceived personal





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relationship conflict and harassment could arise, and the workplace culture could be negatively impacted.

- Situations where employees are in a significant personal relationship in which
  - the employees report one or two layers in the direct-line management hierarchy (is the direct supervisor, or the direct supervisors' supervisor, OR
  - one person has a position of supervisory influence in employment actions concerning the other employee or contractor, must immediately disclose the relationship to department leadership and disclose to HR.
- Leadership is then responsible to ensure removal of the personal relationship conflict.
  - Options include, but are not limited to, one or both of the employees being transferred to an open position that may or may not be comparable, reassigned to a different person or persons for supervisory oversight, adjustment of responsibilities and/or shift. As a final remedy, if the former approaches are not successful at resolving the conflict, one or both employees may be provided a leave of absence to secure alternate job opportunities inside or outside of the *institution*.
  - Ultimately it is the employees' responsibility to identify another appropriate job opportunity for which they meet the qualifications.
- In all cases, failure to cooperate with this policy and resolve workplace issues and conflicts resulting from significant personal relationships in the workplace may result in actions prescribed in the *institution's* corrective action policies.
- Employees in significant personal relationships should understand how the relationship may affect careers with regard to advancement opportunities, job choices and assignments.



## 5. Preventing Harassment in the Workplace

### SCOPE

This document applies to the institution, including all affiliates.

### POLICY

The *institution* is committed to equal employment opportunity for all qualified individuals without regard to race, ethnicity, color, national origin, religion, sex, disability, veteran status, age, genetic information, sexual orientation, gender identity, or any other protected characteristic under applicable law. We support and will cooperate fully with all applicable laws, regulations and executive orders in all of our employment policies, practices and decisions.

The *institution* does not permit harassment, discrimination or retaliation on the basis of race, ethnicity, color, national origin, religion, sex, disability, veteran status, age, genetic information, sexual orientation, gender identity, or any other protected characteristic under applicable law; membership in, application for membership in, performance in or an obligation for performance in any federal uniformed service; filing a charge of discrimination; participating in an investigation; or opposing discriminatory practices, in any aspect of employment, or any other protected characteristic under applicable law. Violation of this Policy will result in corrective action up to and including separation from employment.

#### 1. Anti-Harassment Policy

1.1. The *institution* is committed to providing a workplace that's free from conduct of a harassing nature. Any such harassment is against the *institution's* Policy, could be a form of illegal discrimination, and will not be tolerated. Violation of this Policy will subject employees to corrective action up to and including separation from employment.

1.2. Conduct, whether verbal or physical, will be considered harassment if it's based on an individual's actual or perceived race, ethnicity, color, national origin, religion, sex, disability, veteran status, age, genetic information, sexual orientation, gender identity; membership in, application for membership in, performance in or an obligation for performance in any federal uniformed service; filing a charge of discrimination; participating in an investigation; or opposing discriminatory practices; and if it:

1.2.1. Has the purpose or effect of creating an intimidating, hostile or offensive work environment



1.2.2. Has the purpose or effect of unreasonably interfering with an individual's work performance

1.2.3. Otherwise adversely affects an individual's employment opportunities

## 2. Sexual Harassment

2.1. Sexual harassment is a form of illegal sex discrimination. The *institution* will not tolerate any form of sexual harassment in the workplace. Violation of this Policy will subject employees to corrective action up to and including separation from employment.

2.2. Sexual harassment is defined as harassment based on sex, as described above, and also includes any unwelcome sexual advances, requests for sexual favors or other conduct of a verbal or physical nature when:

2.2.1. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's employment

2.2.2. Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting that person

2.2.3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment

2.3. Sexual harassment can include, among other things, unwelcome propositions, flirtations, and requests—whether express or implied—for sexual favors. It can also include other unwelcome verbal, visual, or physical conduct of a sexual nature, such as unnecessary touching of an individual, graphic, or verbal commentary about an individual's body, sexually degrading verbal abuse, a display in the workplace of sexually suggestive objects or pictures, sexually explicit or offensive jokes, and physical assault.

2.4. No employee shall threaten or insinuate that another employee's or applicant's refusal to submit to sexual advances will adversely affect any condition or privilege of that person's employment. Similarly, no employee shall promise, imply or grant any preferential treatment to another employee or applicant in exchange for engaging in sexual conduct.



### 3. Protection Against Retaliation

3.1. Under no circumstances will an employee who in good faith reports alleged incidents of discrimination, or harassment, or who cooperates in an investigation of any such report, be subjected to any form of reprisal or retaliation on account of his/her having made such report or cooperated in such investigation.

3.2. All allegations of harassment or retaliation will be taken seriously and will be promptly investigated in as confidential a manner as possible, although complete confidentiality cannot be guaranteed. Failure to fully cooperate in such an investigation will result in corrective action up to and including separation from employment. Any employee who, after an investigation, is determined to have engaged in any form of discrimination, harassment, or retaliation in violation of this Policy will be subject to appropriate corrective action, up to and including separation from employment.

3.3. While the *institution* is committed to preventing, addressing, and punishing unlawful harassment and retaliation, it also recognizes that false accusations of harassment or retaliation may harm an innocent party who is falsely accused. Accordingly, any employee who, after an investigation, is found to have knowingly made a false accusation of harassment or retaliation may be subject to appropriate corrective action. However, if an employee makes a report of what he or she in good faith believes to be harassment or retaliation, the employee will not be subjected to corrective action even if the employee turns out to have been mistaken.

### 4. Procedure

4.1 **Employees** are expected to:

- Act honestly and responsibly in complying with this policy.
- Exercise good judgment to avoid engaging in conduct that could be perceived by others as harassment.
- If you feel that you're a victim of harassment, discrimination or retaliation, including, but not limited to, any of the conduct listed above, by any supervisor, management official, other employee, patient, vendor, or any other person in connection with your employment at *institution*, you must bring the matter to the immediate attention of your supervisor and your Human Resources (HR) contact or Employee Relations.





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- If you feel your supervisor is the source of the unlawful harassment, discrimination or retaliation, you must immediately contact HR.
- If you witness harassment, discrimination or retaliation directed at other employees, you must immediately contact the HR department.
- If you fail to report any alleged violation of this policy, you may be subject to corrective action, including separation from employment.

## 4.2 Supervisors are responsible for:

- Communicating the *institution's* expectations regarding workplace conduct to your employees
- Promoting and maintaining a work environment that includes fairness, mutual respect, and appropriate behavior
- Ensuring that calendars, posters, notices, or other written matter or artwork that could be considered offensive aren't displayed in the workplace
- Taking steps to help create a workplace that's free from discrimination, harassment, or inappropriate or offensive touching, communication, or conduct
- Treating all discrimination and harassment complaints seriously, even if the alleged conduct seems harmless or unintended
- If you receive a harassment complaint or believe someone's being harassed:
  - You must promptly contact HR or Employee Relations and work with him or her in conducting an investigation. Don't initiate an investigation without guidance from Human Resources.
  - You're obligated to report any complaints of discrimination or harassment to HR and to make sure the discrimination or harassment stops even if the employee doesn't want you to take action or asks you not to take action.
  - If you fail to report any alleged violation of this policy, you may be subject to corrective action, including separation from employment.

## 4.3 Human Resources is expected to:

- Provide guidance when investigating a discrimination or harassment complaint.





## 6. Harassment Free Workplace Policy

### PURPOSE

The *institution* is committed to providing a work environment that is free of illicit harassment. As a result, *institution* maintains a strict policy prohibiting sexual harassment and harassment against applicants and associates based on any legally-recognized basis, including, but not limited to: veteran status, uniformed service member status, race, color, religion, sex, age (40 and over), national origin or ancestry, physical or mental disability, genetic information or any other consideration protected by federal, state or local law. All such harassment is prohibited.

Our Harassment Free Workplace Policy applies to all persons involved in our operations and prohibits harassing conduct by any associate, including non-supervisory associates, supervisors and managers. This policy also protects associates from prohibited harassment by third parties, such as vendors, clients, or temporary or seasonal workers. If such harassment occurs on the job by someone not employed by *institution*, the procedures in this policy should be followed.

***Associates covered by a Collective Bargaining Agreement/Union Contract should consult that agreement or with Associate Relations to see if this policy/procedure applies to them.***

### DEFINITIONS

Key terms used in this procedure are listed below. To view the definitions for these terms, please refer to the *institution* Glossary of Key Terms document.

#### **Sexual Harassment:**

- A. Sexual harassment includes unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:
  - Submission to such conduct is made a term or condition of employment; or
  - Submission to, or rejection of, such conduct is used as a basis for employment decisions affecting the individual; or
  - Such conduct has the purpose or effect of unreasonably interfering with an associate's work performance or creating an intimidating, hostile or offensive working environment.
  
- B. Sexual harassment also includes various forms of offensive behavior based on sex.



The following is a partial list:

- Unwanted sexual advances.
- Offering employment benefits in exchange for sexual favors.
- Making or threatening reprisals after a negative response to sexual advances.
- Visual conduct: leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons, posters, websites, emails or text messages.
- Verbal conduct: making or using derogatory comments, epithets, slurs, sexually explicit jokes, or comments about an employee's body or dress.
- Verbal sexual advances or propositions.
- Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes or invitations.
- Physical conduct: touching, assault, impeding or blocking movements.
- Retaliation for making reports or threatening to report sexual harassment.

## Other Types of Harassment

Harassment on the basis of any legally protected classification is prohibited, including harassment based on: veteran status, uniformed servicemember status, race, color, religion, sex, age (40 and over), pregnancy (including childbirth, lactation and related medical conditions), national origin or ancestry, physical or mental disability, genetic information (including testing and characteristics) or any other consideration protected by federal, state or local law. Prohibited harassment may include behavior similar to the illustrations above pertaining to sexual harassment. They include conduct such as:

- Verbal conduct including threats, epithets, derogatory comments or slurs based on an individual's protected classification;
- Visual conduct including derogatory posters, photography, cartoons, drawings or gestures based on protected classification; and
- Physical conduct including assault, unwanted touching or blocking normal movement because of an individual's protected status.



## PROCEDURE/GUIDELINES

### Complaint Procedure

1. Any associate who believes that he or she has been subjected to prohibited harassment, discrimination or retaliation by a co-worker, supervisor, agent, client, vendor or customer of *institution*, or who is aware of such harassment, discrimination or retaliation of others, should immediately notify his or her leader, any other member of management or to Human Resources regarding such incidents.
2. After a report is received, a thorough and objective investigation by Human Resources will be undertaken.
3. If a complaint of prohibited harassment or discrimination is substantiated, appropriate Corrective Action, up to and including termination of employment, will be taken.

### Protection Against Retaliation

4. Retaliation is prohibited against any person for using this complaint procedure, reporting proscribed harassment or discrimination, objecting to such conduct or filing, testifying, assisting or participating in any manner in any investigation, proceeding or hearing conducted by a governmental enforcement agency. Prohibited retaliation includes, but is not limited to, termination, demotion, suspension, failure to hire or consider for hire, failure to give equal consideration in making employment decisions, failure to make employment recommendations impartially, adversely affecting working conditions or otherwise denying any employment benefit.
5. An associate should report any retaliation to his or her leader, any management team member or Human Resources. Any report of retaliatory conduct will be investigated in a thorough and objective manner. If a report of retaliation prohibited by this policy is substantiated, appropriate corrective action, up to and including termination of employment, will be taken.



## 7. Harassment Free Workplace

### 1. Purpose

The *institution* strives to create and maintain a work environment in which all employed and non-employed team members, patients, members, visitors and vendors are treated with dignity, decency and respect. For this purpose, the *institution* has a zero-tolerance policy regarding harassment for any discriminatory reason, such as race, color, national origin, sex, disability, age, religion, genetic information, marital status, height, weight, gender, pregnancy, sexual orientation, gender identity or expression, veteran status, or any other legally protected category. Such harassment is strictly prohibited.

This policy may apply to actions or communications that take place away from the workplace or outside work hours (whether in person or via social media or electronic communications) if those actions create a hostile work environment for any employed or non-employed team member, unreasonably interfere with an employed or non-employed team member's performance or workplace opportunities, or otherwise have a material adverse impact on a term or condition of employment, education or work for any employed or non-employed team member.

### 2. Definitions

**2.1. Employed Team Member:** an individual on the *institution's* payroll who may also receive benefits, if eligible, directly from the *institution*; May also be referred to as employee.

**2.2. Non-employed Team Member:** an individual who is not employed by the *institution* entity but who works or provides services on behalf of on the institution or on behalf of another organization; May also be referred to as non-employee.

**2.3. Harassment:** includes hostile work environment harassment (whether based on sex or any other protected category or characteristic) and "quid pro quo" sexual harassment.

**2.4. Hostile work environment harassment:** conduct which is based on a protected category or characteristic and has the purpose or effect for any employed or non-employed team member of:

2.4.1. Creating an intimidating, hostile, or offensive work environment





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2.4.2. Unreasonably interfering with an individual's work performance or academic performance

2.4.3. Otherwise negatively affecting an individual's opportunities with the *institution*, whether employment opportunities, continued service opportunities, or academic opportunities.

2.5. "Quid pro quo" sexual harassment: where submission to unwelcome sexual advances, requests for sexual favors, or other sexual harassment is made an express or implied condition of any person's continued employment, education or association with the institution, or where either submission to, or rejection of sexual harassment is used as the basis for an employment decision or a decision affecting a non-employed team member's work or education with the institution.

## 3. Responsibilities

3.1. Team Member responsibilities: If an employed or a non-employed team member believes that he or she has been harassed, or witnesses or otherwise is aware of conduct prohibited under this policy, the employed or non-employed team member is encouraged to make it clear to the harasser that the conduct is unwelcome and should stop. The employed or non-employed team member must also report the conduct immediately to your leader, to compliance or to any member of Human Resources. Employed and non-employed team members must not remain silent and must not allow an inappropriate situation to continue by not reporting it, regardless of who is creating that situation.

3.2. Management responsibilities: All levels of management will be held to the highest standard of behavior and are responsible for fostering a culture of dignity and respect among workers in accordance with the *institution's* core values. In addition, management must act immediately on observation or allegations of harassment. All management who receive a complaint or are otherwise aware of conduct that may violate this policy must immediately notify Human Resources to initiate an investigation. Failure to notify Human Resources of a complaint may lead to disciplinary action.

3.3. Human Resources Responsibilities: Human Resources will conduct factfinding appropriate to each complaint. Fact-finding may include documented interviews and/or complainant/witness statements. Resident related investigations will be coordinated with the appropriate Program Director(s).





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## 4. Compliance

Any individual who violates this policy will be subject to termination of employment or other working relationship with the *institution*. This policy applies to all employed and non-employed team members, patients, members, visitors and vendors.

## 5. Policy

5.1. Employed and non-employed team members must exercise their own good judgment to avoid any conduct that may be perceived by others as harassment.

5.2. The alleged harasser's intent, or lack of intent to harass, is not the determining factor in deciding whether this policy has been violated.

5.3 The *institution* will take prompt necessary steps to investigate with due regard for confidentiality and will take prompt and appropriate action to eliminate harassment from the workplace.

5.4. The *institution* will not retaliate, nor tolerate retaliation against any employee who in good faith brings a complaint to the attention of the *institution* or participates in an investigation regarding a complaint.

5.5. Harassment can be verbal or non-verbal and includes physical conduct, written conduct, visual displays, and any content presented on social media platforms or via any electronic communications. Such conduct includes, but is certainly not limited to the following:

5.5.1. Slurs or epithets

5.5.2. Insults, put-downs or name-calling

5.5.3. Offensive or derogatory stories, jokes, comments, or other spoken, written or shared content or communications

5.5.4. Offensive or derogatory objects, symbols, pictures, visual displays or other non-verbal content or communications

5.5.5. Offensive or derogatory gestures, noises, or other physical actions

5.5.6. Negative stereotyping

5.5.7. Threats, intimidation or coercion



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- 5.5.8. Hazing
- 5.5.9. Segregation or ostracism
- 5.5.10. Ridicule or mockery

5.6. Examples of sexual harassment specifically include, but are certainly not limited to, the following:

- 5.6.1. Suggestive comments and innuendo
- 5.6.2. Unwanted physical contact or advances
- 5.6.3. Repeated requests or pressure for “dates”
- 5.6.4. Discussion about, or inquiries into, sexual activities or experiences
- 5.6.5. Insults or verbal abuse of a sexual nature
- 5.6.6. Graphic verbal commentaries about an individual’s body
- 5.6.7. Use of sexually degrading words or vulgar words of a sexual nature
- 5.6.8. Humor or jokes about sex or gender-specific traits
- 5.6.9. Display of sexually suggestive objects or pictures, derogatory posters, cartoons or drawings
- 5.6.10. Leering, whistling or suggestive sounds
- 5.6.11. Obscene gestures
- 5.6.12. Displaying pornographic materials and lewd photographs in common areas or via computer
- 5.6.13. Prohibited touching with associated innuendoes (includes unwelcome touching of a sexual nature or intentional brushing of the body)

## 6. Revisions

The *institution* reserves the right to alter, amend, modify or eliminate this policy at any time without prior written notice.

## 7. Keywords

sex, pregnancy, race, color, national origin, disability, age, religion, sexual orientation, gender expression, gender identity, genetic information, marital status, veteran status, height, weight, protected, offensive, harassment, harass, discrimination, sexual, racial, retaliation, respect, dignity, hostile, derogatory, disrespectful



## 8. Preventing Harassment in the Workplace

### SCOPE

This document applies to the *institution* including Affiliates.

### DEFINITIONS

3.1. Under no circumstances will an employee who in good faith reports alleged incidents of discrimination, or harassment, or who cooperates in an investigation of any such report, be subjected to any form of reprisal or retaliation on account of his/her having made such report or cooperated in such investigation.

3.2. All allegations of harassment or retaliation will be taken seriously and will be promptly investigated in as confidential a manner as possible, although complete confidentiality cannot be guaranteed. Failure to fully cooperate in such an investigation will result in corrective action up to and including separation from employment. Any employee who, after an investigation, is determined to have engaged in any form of discrimination, harassment, or retaliation in violation of this Policy will be subject to appropriate corrective action, up to and including separation from employment.

3.3. While the *institution* is committed to preventing, addressing, and punishing unlawful harassment and retaliation, it also recognizes that false accusations of harassment or retaliation may harm an innocent party who is falsely accused. Accordingly, any employee who, after an investigation, is found to have knowingly made a false accusation of harassment or retaliation may be subject to appropriate corrective action. However, if an employee makes a report of what he or she in good faith believes to be harassment or retaliation, the employee will not be subjected to corrective action even if the employee turns out to have been mistaken.

### PROCEDURE

**Employees** – you're expected to:

- Act honestly and responsibly in complying with this policy.
- Exercise good judgment to avoid engaging in conduct that could be perceived by others as harassment.
- If you feel that you're a victim of harassment, discrimination or retaliation, including, but not limited to, any of the conduct listed above, by any supervisor, management official, other employee, patient, vendor, or any other person in connection with your



employment at the institution, you must bring the matter to the immediate attention of your supervisor and Human Resources (HR) or Employee Relations.

- If you feel your supervisor is the source of unlawful harassment, discrimination, or retaliation, you must immediately contact HR. If you witness harassment, discrimination, or retaliation directed at other employees, you must immediately contact the HR department.
- If you fail to report any alleged violation of this policy, you may be subject to corrective action, including separation from employment.
- If you witness harassment, discrimination or retaliation directed at other employees, you must immediately contact the HR department.
- If you fail to report any alleged violation of this policy, you may be subject to corrective action, including separation from employment.

## Supervisors

You're responsible for:

- Communicating the *institution's* expectations regarding workplace conduct to your employees
- Promoting and maintaining a work environment that includes fairness, mutual respect, and appropriate behavior
- Ensuring that calendars, posters, notices, or other written matter or artwork that could be considered offensive aren't displayed in the workplace
- Taking steps to help create a workplace that's free from discrimination, harassment, or inappropriate or offensive touching, communication, or conduct
- Treating all discrimination and harassment complaints seriously, even if the alleged conduct seems harmless or unintended
- If you receive a harassment complaint or believe someone's being harassed:
- You must promptly contact HR or Employee Relations and work with him or her in conducting an investigation. Don't initiate an investigation without guidance from Human Resources.





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- You're obligated to report any complaints of discrimination or harassment to your HR contact and to make sure the discrimination or harassment stops even if the employee doesn't want you to take action or asks you not to take action.
- If you fail to report any alleged violation of this policy, you may be subject to corrective action, including separation from employment.

**Human Resources** – you're expected to provide guidance when investigating a discrimination or harassment complaint.





## 9. Diversity and Inclusion

As part of a sustainable and systemwide commitment to listen, learn, and act to help address racism and systemic injustice, the *institution* has launched a new justice-focused framework built upon the hallmarks of diversity, equity, inclusion, appreciation, and belongingness. The hallmarks of this justice-focused framework are demonstrations of the *institution's* historic mission, values, and commitment to social justice, compassionate action, and advocacy for all, especially the most vulnerable.

In response to the death of George Floyd, the *institution* publicly voiced its support for justice and peace, and the need to address racism and systemic injustice with words and actions. It also called upon its leadership team to develop a long-term, sustainable plan to make inclusion, belongingness, and social justice a sustained and systemwide effort.

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### Our commitment to welcome all as we stand against racism and systemic injustice

We have a unique obligation and calling – reflected in our very mission statement – to advocate for a more just and compassionate society in words and actions. We share in the call to accountability and advocacy against systemic racism and injustice. All of us share in the responsibility to use our time and talents to work toward eradicating discrimination.

We have recommitted to bring about the just and compassionate society that is so central to our historic mission. We recognize that fostering a more inclusive culture and advocating for social justice can help provide more equitable employment opportunities for all while also helping to remedy the healthcare disparities that have been perpetuated by racism and systemic injustice.

We also acknowledge that this is only the beginning of a journey that will require open hearts and minds, transparency, courage, humility, determination, truth, and honesty, along the way as we engage in an ongoing process to learn more about ourselves, our neighbors,



and the impact of our operations so we can foster a more inclusive culture – both within the *institution* and in the wider community.

We stand firm in this commitment and invite all individuals and communities to engage in ongoing conversation to further this shared commitment.

## **Listening: A critical step on the path to action and justice**

We believe the way forward to address racism and systemic injustice must involve the critical first step of **listening**. The act of listening with empathy to the voices and viewpoints of others offers an opportunity for us to acknowledge and better understand the different realities many of us experience.

## **Modeling positive change to foster a more inclusive and diverse culture and community**

We at the *institution* seek to live out our mission as a health organization in a way that celebrates the inherent dignity of each and every person. This work will be ongoing and require participation from everyone in order for changes to be lasting and transformative. We are committed to fostering a culture of inclusion across all areas of our *institution*.

We also realize that the hallmarks of our justice-focused framework provide guidance for a process of learning and improvement that is never complete. As such, the *institution* is committed to continuous improvement and has developed various methods to help us review the progress we make achieving the hallmarks of this justice-focused framework in service to our associates, patients, and the communities that we serve.



## 10. Equal Employment Opportunity

### Purpose

To grant equal employment opportunity to all qualified persons without regard to race, color, national origin, sex, disability, age, religion, genetic information, marital status, height, weight, gender, pregnancy, sexual orientation, gender identity or expression, veteran status, or any other legally protected category.

### Definitions

Employed Team Member: an individual on the *institution's* payroll who may also receive benefits, if eligible, directly from the *institution*; May also be referred to as employee.

Disability: with respect to an individual, a physical or mental impairment that substantially limits one or more major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

National Origin: an individual's manifestation of the physical, cultural, or linguistic characteristics of a national origin group as well as an individual's or her ancestor's place of origin.

Sex: includes discrimination on the basis of gender, pregnancy, false pregnancy, termination of pregnancy, or recovery therefrom, childbirth or related medical conditions, sexual orientation and gender identity.

### Responsibilities

The *institution* expects all employed team members to fully cooperate with the terms of this policy.

### Compliance

This policy applies to all the *institution's* employees, which includes individuals who may be jointly employed by the *institution* and another entity, such as agency staff or contracted consultants.

### Policy

This policy applies to hiring, training, staffing/scheduling, promotion, wages, benefits, and all other privileges, terms, and conditions of employment. Any employee who experiences or



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becomes aware of a violation of this policy should report it immediately to any member of Human Resources. All such reports will be treated discretely, and no employed team member will experience any retaliation for making a good faith report. The *institution* will take prompt remedial action to correct any violation of this policy, including disciplinary action (written notice) up to and including termination (separation of employment). The *institution* reserves the right to impose restrictions based on any protected characteristics when such restrictions would constitute bona fide occupational qualifications under federal and state law.

## Revisions

The *institution* reserves the right to alter, amend, modify or eliminate this policy at any time without prior written notice.

## Keywords

equal, equal employment, equal employment opportunity, affirmative action, EEOC, rights, age, race, sex, gender identity, gender expression, sexual orientation.





## 11. Human Resources Protection from Discrimination, Harassment, and Retaliation

### Summary

The *institution* is committed to providing a culture of diversity and inclusion. The *institution* is committed to treating all teammates with dignity and respect. It is important to the institution that teammates, patients, and visitors have an environment that is free from discrimination, harassment (sexual or otherwise), and retaliation. Any action that is demeaning to another person undermines the integrity of the employment relationship. This is clearly not allowed. The *institution* provides teammate education surrounding these activities and how to identify them in the workplace. It is not only encouraged, but expected, that all teammates report such behaviors. It is the goal of the *institution* that these incidents will be dealt with in a fair manner. This policy applies to harassment (sexual or otherwise), and/or discrimination, and/or retaliation that occurs on the institution's property, or in connection with any institutional activity or during the performance of *institution's* work.

### Applies to

All *institution* teammates, volunteers, students, patients, visitors, visiting physicians, and contract workers.

### Procedures

General Guidelines

Teammate Responsibilities

### Definitions

#### ➤ Discrimination

Discrimination is unfairness resulting in the refusal of an opportunity. (see *institution's* glossary)

Examples of an opportunity may be:

- Hiring
- Promotion
- Transfer
- Selection for education or development



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Discrimination occurs when any of the following are used as a basis for the refusal of an opportunity:

- Race
- Gender
- Religion
- National Origin
- Color
- Age
- Protected Veteran Status
- Disability
- Pregnancy
- Genetic Information
- Sexual Orientation
- Gender Identity
- Any other category that is protected by federal, state, or local law

## ➤ Harassment

Harassment is an action by any teammate regardless of position, vendor, independent contractor, or visitor that:

- Creates an intimidating, abusive, or hostile work environment; or
  - Is unwelcomed or personally offensive conduct that singles out a teammate, and is to the teammate's disadvantage, because of race, gender, religion, national origin, color, age, pregnancy, protected veteran status, disability, genetic information, sexual orientation, gender identity or any other category protected by federal, state, or local laws.

Examples of behaviors that may be harassment are actions, words, comments, jokes, racial or ethnic slurs, or threats. Actions may be verbal, physical, or visual.

## ➤ Sexual Harassment

Sexual harassment includes unwelcome advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature, including same sex situations occurring at work or off duty. It could happen when:

- Surrendering to the conduct is made either a clear or implied term or



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condition of a person's employment, or

- Surrendering or refusing the conduct is used as the basis for employment decisions that affect a teammate, or
- The conduct greatly interferes with, or is intended to interfere with, a teammate's work performance or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can take a variety of forms. It can range from slight pressure for sexual activity to physical assault. Examples of sexual harassment may include:

- Unwelcome sexual flirtations.
- Sexual advances or propositions.
- Unwanted sexual compliments.
- Innuendoes, suggestions, or jokes.
- Leering or making sexual gestures.
- Repeated comments about one's physical appearance or attire.
- Derogatory, vulgar, or graphic written or oral statements about a person's body, sexuality, gender, or sexual experience.
- Sexually degrading words to describe a person.
- Suggestive or obscene letters, notes, text messages, emails, or invitations.
- The display of sexually suggestive pictures or objects.
- Unnecessary, unwelcomed touching, patting, pinching, or attention to an individual's body or impeding or blocking movements.
- Stalking.
- Threats or intimidation of sexual relations or sexual contact, which is not freely agreeable to both parties.
- Physical assault.
- Retaliation for making harassment reports or threatening to report harassment.
- Threats to deny or take away employment opportunities or benefits if a teammate does not submit to unwelcome sexual advances.
- Promising or offering to grant employment opportunities or benefits if a teammate submits to unwelcome sexual advances.

## ➤ **Discriminatory Harassment**

Prohibited harassment on the basis of the following characteristics: race, gender, religion, national origin, color, age, pregnancy, protected veteran status, disability, genetic



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information, sexual orientation, gender identity or any other category protected by federal, state or local laws, includes behavior similar to sexual harassment such as:

- Stereotyping,
- Verbal conduct such as slurs, insults, threats, epithets, jokes, bullying, and/or comments that are derogatory based on the characteristics listed above.
- Visual conduct such as displaying derogatory posters, photography, cartoons, drawings, computer screenshots, or gestures.
- Repeated comments about one's appearance or attire that are based on the characteristics listed above.
- Derogatory, emails, text messages, instant messaging.
- Assault, unwanted touching or blocking normal movement.
- Threatening, intimidating, or hostile acts related to a person's race, gender, religion, national origin, color, age, pregnancy, protected veteran status, genetic information, or any other category protected by federal, state or local laws.
- Retaliation for making harassment reports or threatening to report harassment.

## ➤ Retaliation

Retaliation is taking revenge against a teammate or co-worker. This may be because a teammate reported discrimination, harassment, a complaint, an *institution* policy violation, or participated in an investigation, proceeding, or hearing conducted by a governmental enforcement agency.

Examples of retaliation are actions that take place after a documented report of one of the former listed items and can include:

- Unfounded teammate counseling.
- Unfounded termination, demotion, suspension.
- Making or threatening reprisals after a negative response to advances or propositions.
- Unfounded negative evaluations/reviews or excessive scrutiny of a teammate's work performance.
- Threats.
- Intimidation.
- Other action(s) meant to harm, scare, or intimidate a teammate.





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## General Guidelines

- The *institution* is committed to a work environment in which all individuals are treated with respect and dignity. Therefore, the *institution* expects that all relationships among persons in the workplace or in connection with any *institution* activity or during the performance of *institutional* work will be professional and free of bias, prejudice, and harassment.
- The *institution* does not discriminate against any person seeking a job or any current teammate. This includes hiring, promotion, transfer, selection for education or development, or any other terms or conditions of employment on the basis of race, gender, religion, national origin, color, age, pregnancy, protected veteran status, disability, genetic information, sexual orientation, gender identity or any other category protected by federal, state or local laws. The *institution* fully supports and abides with the law.
- The *institution* does not allow or tolerate any form of harassment or sexual harassment.
- The *institution* does not allow any form of retaliation against any teammate. This includes protection for teammates filing a good faith complaint, participating in an investigation in good faith, proceeding or hearing conducted by a governmental agency by offering truthful information or testimony, or reporting good faith violations of policies.
- This policy affects actions and behaviors between teammates and leaders, patients, students, volunteers, contract workers, and visitors.
- If it is found that a teammate has violated this policy against another, this teammate will be subject to appropriate counseling commensurate with the severity of the violation, up to the end of the employment relationship.
- If a teammate is discriminated against, harassed, or retaliated against by a non-teammate, it is to be reported immediately. The *institution* wants to provide a comfortable work environment for all teammates. A non-teammate who subjects a teammate to any of these actions in the workplace will be informed of this policy. Other action may be taken as necessary.



## Teammate Responsibilities

- A teammate who believes that he/she has been subjected to harassment (sexual or otherwise) and/or discrimination is encouraged to clearly and directly communicate to the offending individual that his or her conduct is not welcomed and request that the offensive behavior immediately stop. Regardless of whether the teammate communicates with the offending individual, a teammate who believes that he/she has been harassed (sexually or otherwise) and/or discriminated against or observes harassment (sexual or otherwise) and/or discrimination is to report it immediately to Human Resources, *leadership* responsible for his or her business unit. A teammate may utilize any one of these reporting mechanisms or a combination of these mechanisms that he or she is most comfortable using.
- Teammates can be secure that reports will be treated with sensitivity, taken seriously, and investigated as promptly as possible. Investigations will be conducted as confidentially as practicable consistent with a full and fair investigation and to protect the parties involved. This may include talking to all parties involved, including any witnesses. *Institution* will follow-up with the teammate as soon as possible upon completion of the investigation. If a teammate believes that he or she is being retaliated against for reporting an allegation of harassment and/or discrimination or participating in an investigation of harassment and/or discrimination, he or she is to report it immediately to Human Resources or the *leadership* responsible for their business unit. A teammate may utilize any one of these reporting mechanisms or a combination of these mechanisms that he or she is most comfortable using.
- All reported concerns of retaliation will be taken seriously and investigated as promptly as possible. Investigations will be conducted as confidentially as practicable consistent with a full and fair investigation and to protect the parties involved. This may include talking to all parties involved, including any witnesses. The determination of the investigation will be reported to the teammate as soon as possible upon its completion.
- A teammate is encouraged not to wait until behavior interferes with his/her work performance or creates an uncomfortable work environment. Teammates who believe that workplace behavior is negatively affecting them are asked to report it to the unit or department leader or Human Resources. This will allow quick action to be taken to prevent the behavior from becoming harassment.



- All teammates have a duty to cooperate with any investigation by providing truthful and accurate information. Failure to cooperate may lead to teammate counseling up to, and including, ending the employment relationship.
- *Institution* recognizes that false claims of discrimination, harassment, and/or retaliation can have serious effects on innocent individuals. We trust that all teammates will act responsibly and professionally in reporting. A teammate who brings a claim which he or she knows to be false may be subject to counseling up to the end of employment.
- Teammates are encouraged to raise questions they may have about this policy with Human Resources.

## Leader Responsibilities

- Unit or department leaders are to make sure that all teammates are aware of this policy. Leaders are to monitor teammate behaviors and actions to make sure they are in accord with this policy. If a teammate reports or a leader observes or reasonably suspects any of these behaviors, leaders are required to then report it immediately to Human Resources for further guidance and actively participate in and support any resulting investigations.
- Leaders are expected to follow this policy. This means that leaders are:
  - Not to discriminate in any way on the basis of race, gender, religion, national origin, color, age, pregnancy, protected veteran status, disability, genetic information, sexual orientation, gender identity or any other category protected by federal, state or local laws during hiring, promotion, transfer, selection for education or development, or any other terms or conditions of employment.
  - Not to grant or deny promotions, or force any change in a teammate's job status, on the basis of the giving or denying of sexual favors by the teammate.
  - Not to ignore complaints of harassment (sexual or otherwise) and/or discrimination.
  - Not to ignore when they observe harassment (sexual or otherwise) and/or discrimination.
  - Not to retaliate in any way against teammates participating or reporting a complaint, investigation, or policy violation, or other similar actions.



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Policies on

# Employee Harassment





## 12. Sexual and Other Harassment Prevention Policy

### Scope

Applies to all employees, including Physician Staff, Allied Health Employees, Residents, Fellows, and employed Research Temporary Professionals when fulfilling responsibilities assigned to them by the *institution*.

### Purpose

To emphasize that mutual respect, including consideration and courtesy, is one of the *institution's* Core Values and is expected of everyone.

To establish that the *institution's* employees have the right to work in an environment free from all forms of discrimination and conduct which can be considered harassing, coercive, or disruptive.

To recognize that harassment undermines morale and interferes with the productivity, health, and wellbeing of individuals and their coworkers and will not be tolerated.

### Policy

- The *institution* prohibits harassment on the basis of race, sex, age, religion, national origin, marital status, color, creed, sexual orientation, gender identity or expression, pregnancy status, disability (physical and mental), genetic information, veteran status, and status with regard to public assistance or other protected characteristics.

### Prevention

- In order for the *institution* to provide a safe and comfortable work environment, the *institution* expects a high standard of personal and professional conduct on the part of all employees. This standard goes above and beyond the threshold of legal compliance, such that disrespectful behavior is addressed before it becomes legally actionable.
- Education and training opportunities will be periodically offered to reinforce the *institution* values, guide the detection of unacceptable workplace behaviors, and describe the process to report incidents of unacceptable behavior and harassment and develop bystander intervention techniques, including conflict management skills, perspective-taking skills, and empathy.
- If employees experience or witness harassment, they have a responsibility to report the occurrence. Employees are also encouraged to engage in critical conversations in



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response to small acts of disrespect or bias in order to maintain the respectful work culture of the institution.

- Individual work units must encourage open communication by offering an environment where employees are comfortable coming forth to discuss concerns with their supervisors, peers, and/or subordinates.

## Harassment

- The *institution* prohibits any verbal or non-verbal, physical, visual or digital/social media conduct that degrades or shows hostility toward an individual because of that person's sex, race, age, religion, national origin, marital status, color, creed, sexual orientation, gender identity or expression, pregnancy status, disability (physical and mental), veteran status, and status with regard to public assistance.
  - Harassing conduct includes:
    - Slurs, negative stereotyping or threatening, intimidating, or hostile acts including jokes or pranks that are hostile or demeaning.
    - Written or graphic material that is offensive or shows hostility toward an individual or group that is displayed on walls, bulletin boards, computers or other locations, or circulated in the workplace.
    - Physical harassment including conduct such as assault, impeding or blocking movement or any physical interference with normal work or movement.
    - Visual forms of harassment including derogatory images such as posters, cartoons or drawings.
    - Intimidating, offensive, or hostile communications via text, instant message, or social media, stalking individuals through social media accounts, hacking another's social media account, or otherwise posting fabricated information or photographs that harm or risk harm to others.

## Sexual Harassment

- The *institution* prohibits sexual harassment, including but not limited to unwelcome sexual advances; requests, demands or pressure for sexual favors; sexualized or otherwise nonconsensual physical contact; verbal or non-verbal, written and electronic communications; and visual and physical conduct of a sexual or gender-based nature when:



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- Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or academic success.
  - Power differences wherein one party has control over the employment or academic outcomes of another can implicitly make submission to sexual conduct a condition of employment or academic success, even when such quid pro quo exchanges are not explicitly communicated.
- Submission to or rejection of such conduct by an individual is used as the basis for employment or academic decisions affecting an individual.
- Such conduct is intended to or does (even without ill intent) unreasonably interfere with an individual's work or academic performance or creates an intimidating, hostile, or offensive work or academic environment.
- Sexual harassment includes various forms of offensive behavior. The following is a partial list:
  - Unwanted sexual advances
  - Offering employment or academic benefits in exchange for sexual favors
  - Making or threatening reprisals after a negative response to sexual advances
  - Visual conduct: leering, making sexual gestures, displaying of sexually suggestive objects or pictures, cartoons or posters
  - Verbal conduct: making or using derogatory comments, epithets, slurs, sexually explicit jokes, comments about an employee's body or dress
  - Verbal sexual advances or propositions
  - Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes, or invitation
  - Physical conduct: touching, assault, impeding or blocking movements
  - Retaliation for making harassment reports or threatening to report a false claim of harassment in retaliation
- Sexual harassment can be perpetrated by or targeted at men or women, cisgender, transgender, or non-binary/gender fluid people, and individuals or groups. The perpetrator of sexual harassment does not need intent to harm the target to meet



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the legal definition of sexual harassment, rather the harmful impact of sexual, sex-based, or gender-based conduct defines sexual harassment.

- The most common motive for sexual harassment is not sexual interest, but an abuse of power or dominance over another person. As such, those in marginalized social groups and those in subordinate job roles are at the highest risk of being targeted by sexual harassment.
- All employees at the *institution* have a responsibility to report immediately to the appropriate supervisor, administrator or designee any complaint of a lack of mutual respect or harassment which is brought to their attention.
  - Employees are not required to determine whether suspected conduct constitutes harassment under this policy. They simply may report the suspected conduct according to the *Complaint Resolution Procedure*.
  - Reporting or otherwise engaging in critical conversations in response to minor instances of unprofessional sexual, sex- or gender based misconduct is encouraged. The *institution* will provide support to employees seeking to resolve conflicts that do not amount to legally actionable harassment or discrimination.

## Formal Reporting

- Employees who believe they have been harassed, have witnessed harassment, or have had incidents of harassment reported to them by colleagues have the responsibility to report these matters to their immediate supervisor or other management personnel, the *institution* Hotline, or HR so that the alleged behavior can be promptly investigated and appropriate action taken.
- Physician Staff may contact HR, department or division leadership, the dean's office or *other relevant entity*.

## Investigation

- All allegations of harassment will be promptly and thoroughly investigated by HR, working collaboratively with a member of department leadership and, *relevant group* for physician staff.
- The *institution* will endeavor to protect the privacy and confidentiality of all parties involved to the extent possible, consistent with a thorough investigation. Absolute





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confidentiality, however, cannot be promised based on our obligation to investigate all reported incidents of harassment.

- All employees, whether complainant, witness, or the subject of the investigation, are required to be truthful, accurate, and cooperative throughout the investigation.

## Action

- If an investigation results in a finding that this policy has been violated, appropriate action will be taken which may include, but is not limited to, no disciplinary action, education, an apology, documentation (formal or informal), termination of employment, or other corrective action. The complainant and the subject of the investigation will be informed, where appropriate, of the findings of the investigation.

## False Accusations

- The *institution* will not tolerate false harassment claims.
- If the investigation establishes that the alleged conduct did not occur, the complainant will be subject to appropriate corrective action.
- The subject of the investigation must be assured that the false charges will not affect the terms or conditions of their employment with the *institution*.
- The *institution* recognizes that there is a difference between a false claim and an unsubstantiated claim, with the former being baseless and completely fabricated and the latter merely lacking evidence to meet the legal definition of harassment or discrimination. The *institution* will resolve unsubstantiated claims through assisted informal conflict resolution with the goal of restoring respect and a productive working relationship between the two disputing parties.

## Retaliation

- Under no circumstances will the *institution* tolerate retaliation or intimidation of a complainant, witness, or subject of an investigation.
- Subjects found, through a thorough investigation, to have violated this policy will face progressive disciplinary action, and this action is not considered retaliatory. However, any informal action of retaliation taken against the subject during or after the investigation may constitute retaliation.
- Complainants and witnesses who participate in investigations that result in an unsubstantiated claim are still protected from retaliation. The *institution* recognizes



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that individuals may still feel harassed or discriminated against even if the standards of the legal definitions cannot be met through a thorough investigation. The *institution* commits to supporting those who reported unsubstantiated claims through an assisted informal conflict resolution process.

- Complainants or witnesses who fabricate false claims will face corrective action, and this action is not considered retaliatory. However, any informal action of retaliation taken against those who fabricate false claims during or after the investigation may constitute retaliation.
- Employees who have had a complaint addressed by this procedure or have participated in an investigation should immediately make a further complaint if they are the subject of retaliation or intimidation, or if the harassment recurs.
- The *institution* prohibits retaliatory behavior, including, but not limited to, termination, demotion, suspension, failure to hire or consider for hire, failure to give equal consideration in making employment decisions, failure to make employment recommendations impartially, adversely affecting working conditions or otherwise denying any employment benefit.
- Employees should report concerns of retaliation to their supervisor. If the employee is uncomfortable reporting the issue to his/her supervisor, the employee may contact HR (physicians may contact HR, department or division leadership, the dean's office or other *relevant entity*).
- Any report of retaliatory conduct will be investigated in a thorough and objective manner using the *Complaint Resolution procedure*. If a report of retaliation is substantiated, appropriate disciplinary action, up to and including discharge, will be taken.

## Harassment by Patients and Visitors

- The *institution* will not tolerate disrespectful behavior of any kind from patients or visitors, including, but not limited to sexual or any other form of disrespectful behavior, ranging from inappropriate humor and subtle hints to overt acts, threats, or physical contacts.
- Those with a duty to provide care to a patient who experience disrespect, harassment, or discrimination from that patient or their visitors are encouraged to speak with a supervisor to request assistance while providing care or to request transfer of care for that patient to another employee.



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- While the *institution* does not condone disrespect from patients or visitors, it recognizes that some employees may desire to address disrespectful behavior from patients or visitors themselves. As such, the *institution* is committed to providing employees with training, development, and support to conduct critical conversations with patients or visitors regarding inappropriate or disrespectful behaviors.
- Employees are encouraged to document any informal attempts to address patient or visitor inappropriateness in the event the employee chooses to file a formal complaint in the future.

## Orders of Protection/Harassment Restraining Orders

- An employee who obtains or is named in an Order for Protection or Harassment Restraining Order which lists the *institution* premises as a protected area is required to provide his/her supervisor with a copy of the order.
- The supervisor will discuss with security, human resources, and the employee any accommodations to the work setting that may be necessary and/or action plan should a violation of the Order for Protection or Restraining Order occur.



## 13. Sexual and Other Harassment Formal Reporting Procedure

### Scope

Applies to all institution employees, including Physician Staff, Allied Health Employees, Residents, Fellows, and employed Research Temporary Professionals when filing a harassment complaint, a harassment complaint has been filed against him/her, or is involved in the investigation and resolution of a harassment complaint.

### Purpose

To establish and provide the *institution* employees with a framework for addressing and resolving harassment complaints.

### Procedure

#### Formal Reporting

#### 1. Formal Reporter, or Any Person Providing a Report of Harassment

##### a. Allied Health employees

##### 1. Report harassment to:

- a. Immediate supervisor or other management personnel,
- b. The *institution* Compliance Hotline, or
- c. HR

##### b. Physician Staff

##### 2. Contact departmental or division leadership, the dean's office or the *relevant institutional entity*.

#### 2. Human Resources Staff

##### a. Investigate all allegations of harassment, promptly and thoroughly, in collaboration with:

- For allied health staff: a member of department leadership.
- For Physician staff: departmental or division leadership, the dean's office or the *relevant institutional entity*.

##### b. Protect the privacy and confidentiality of all parties involved to the extent possible, consistent with a thorough investigation.

- Absolute confidentiality cannot be promised based on the institution's obligation to investigate all reported incidents of harassment.





### 3. All Employees, Including Complainant, Witness, or the Subject of the Investigation

- Cooperate with the investigation and provide truthful and accurate information.

### 4. Human Resources Staff: If the investigation results in a finding that the policy has been violated:

- Take appropriate action based on progressive disciplinary procedures that match the severity of the corrective action with the severity and frequency of the offense.
- Corrective actions may include, but are not limited to:
  - No disciplinary action,
  - Education,
  - An apology,
  - Documentation (formal or informal),
  - Other corrective action, or
  - Termination of employment.
- Inform the complainant and the subject of the investigation, where appropriate, of the findings of the investigation.

## Complaints Against Patients or Visitors

An employee who experiences intimidation or harassment or feels threatened around or by a patient or visitor should take the following steps and refer to the relevant *patient and visitor conduct policy*.

### 1. Employee

- Immediately report the incident to the supervisor, administrator or designee responsible for the area in which the employee is working at the time.
- If providing health care services at the time of the incident, temporarily discontinue any health care services that are not vital to the patient's health and safety.

### 2. Supervisor, Administrator or Designee

- Contact the patient's attending physician and, in consultation with the Legal Department, develop a plan to address the complaint.



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## Definitions

**Harassment:** Verbal or non-verbal, physical, or visual conduct that denigrates or shows hostility toward an individual because of that person's sex, race, age, religion, national origin, marital status, color, creed, sexual orientation, gender identity or expression, disability (physical and mental), veteran status, and status with regard to public assistance. Conduct is considered harassment when it is unwelcome, pervasive, and persistent.

**Sexual Harassment:** Conduct of a sexual nature that is sufficiently severe or pervasive (persistent) as to have the purpose or effect of unreasonably interfering with an employee's work or academic performance. Sexual harassment is unlawful behavior.



## 14. Aggression, Bullying, Hostility, and Violence in the Workplace

### Policy

The *organization* is committed to promoting a safe work environment for its team members. The *organization* will not tolerate aggression, bullying, hostility, and/or violence against any individual in the workplace, through social media or in other settings outside of the workplace that impact the work environment. Any team member who engages in aggression, bullying, hostility, and/or violence will be subject to disciplinary action, up to and including termination of their employment or engagement, as applicable with the *organization* policy.

Additionally, the *organization* does not tolerate retaliation against any individual for making a complaint or for cooperating, assisting, or participating in an investigation of the behaviors outlined in this policy. In promoting a safe workplace environment, leaders are required to be knowledgeable of this policy and its ongoing application. Leaders are encouraged to contact their Human Resources Department or Employee Assistance Program for consultation and training opportunities.

### Purpose

The purpose of this policy is to:

1. Promote a safe working environment;
2. Ensure that team members are aware of and understand that acts of workplace aggression, bullying, hostility, and physical violence may be considered serious offenses for which appropriate remedial action will be imposed;
3. Inform those who are subjected to such acts that they are encouraged to access any assistance they may require in order to pursue a complaint, and;
4. Advise individuals of available recourse if they are subjected to, or become aware of, situations involving workplace aggression, bullying, hostility, or physical violence.

### Scope

This policy applies to all team members, medical staff, volunteers, students, vendors, and personnel.



## Definitions

**Aggression** – Behaviors which by their nature are threatening and instill a sense of fear in those who are subjected to and/or witness such behaviors. Aggressive actions may include those that involve the destruction of property either intentionally or accidentally during emotional outbursts (e.g., anger), throwing objects (with or without hitting anyone); walking and/or running toward someone with apparent intent to harm him/her; menacing gestures meant to intimidate another (such as shaking one’s fist or gesturing to hit another).

**Bullying** – Intentional, hurtful mistreatment of another whether overt or covert, verbal or non-verbal, which by its nature occurs with some regularity and/or over an extended period of time. The term is inclusive of aggression, hostility, and physical violence as herein defined and could also include deliberately providing misinformation and withholding information needed in the workplace for patient care or facility operations, or persistent generally negative attitudes maintained toward an individual that unreasonably interferes with that individual’s work performance.

**Hostility** – Conduct and/or communication intended to intimidate, belittle, or reduce the self-esteem of another including, but not limited to, excessive cursing, shaming another, or making derogatory or disparaging comments based upon an individual’s protected status (i.e., race, national origin, sex/gender, etc.).

**Workplace Violence** – Violent acts, including physical incidents, patient aggression incidents, and psychological or verbal incidents.

## Procedures

- A. Any team member who has been a victim of, or a witness to, aggression, bullying, hostility, or violence by another team member should promptly report the incident to their manager, Human Resources, or Security.
- B. Team members who are faced with imminent danger should immediately contact Security and their manager. The team member’s manager should notify Human Resources of the incident immediately but no later than the next business day.
- C. Any team member who is a victim of an assault or violent crime will receive immediate medical attention.





D. The organization offers a confidential Employee Assistance Program for team members who may need help in coping with acts of aggression, bullying, hostility, and/or violence.

E. Any incident that is reported will be investigated and handled in a confidential manner to the greatest extent possible. After consultation with Human Resources, the appropriate department will conduct such an investigation based upon the nature of the incident and the parties involved as detailed below. A determination regarding appropriate action, if any, will be made based on findings from the investigation and after consultation with Human Resources.

1. Human Resources will investigate complaints of aggressive, bullying, hostile, and violent acts committed by a co-worker.

2. The department head/manager will investigate complaints of aggressive bullying, hostile, and violent acts committed by a patient. Visitors who engage in acts of aggression, bullying, hostility, and/or workplace violence will be advised that the continuation of such behavior will result in removal from the facility and referral to appropriate law enforcement authorities.

F. Team members who violate this policy will be subject to disciplinary action, up to and including termination of their employment or engagement, as applicable. In addition, appropriate legal action by the authorities, including arrest, may be taken as needed against any individual who violates this policy.

G. The Medical Director or Chief of Staff will investigate complaints of aggressive, hostile, and/or violent acts by medical staff and other credentialed practitioners.

H. Any medical staff member or other credentialed practitioner found to have violated this policy will be disciplined consistent with the facility's Bylaws and Code of Conduct.



## 15. Non-Discrimination and Non-Harassment (including Sexual Harassment)

### Policy

The *institution* is committed to nurturing a culture that supports diversity, inclusion, and health equity where every team member and patient is treated with dignity and respect and feels welcomed, valued, and heard.

*We are all unique. We stand united, proud, and respectful, always celebrating our differences.*

In keeping with this commitment and our values, the *institution* maintains a safe, inclusive and respectful work environment that is free from all forms of discrimination and harassment and has zero tolerance for any verbal or non-verbal displays or acts of discrimination or harassment by a member of the *institution* workforce. Discrimination or harassment based on an individual's age, race, creed/religion, color, national origin, immigration status or citizenship status, sexual orientation, military or veteran status, sex/gender, gender identity, gender expression, disability, pregnancy, genetic information or genetic predisposition or carrier status, marital or familial status, partnership status, victim of domestic violence, sexual or other reproductive health decisions or other protected status of any kind is considered misconduct and a violation of the *institution* policy and subject to disciplinary action or where appropriate, termination of employment.

Additionally, the organization does not tolerate retaliation against any individual for making a complaint about or opposing discrimination or harassment or for cooperating, assisting or participating in an investigation of discrimination or harassment.

Anyone who experiences, witnesses, or otherwise becomes aware of possible instances of discrimination, harassment, or retaliation must promptly report it to their Site Human Resources department ("Site HR"), or a supervisor or manager. Supervisors and managers, if made aware of, or have information about, such improper conduct must report the same to Site HR.

In accordance with our zero-tolerance policy, the *institution* is committed to taking every complaint of discrimination or harassment seriously, investigating all claims and incidents,



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and where it is determined that inappropriate conduct occurred, acting promptly to end the misconduct and impose corrective action, as necessary, including disciplinary action, up to and including employment termination, where appropriate.

Sexual harassment is a form of workplace discrimination and will not be tolerated. Please refer to this policy's addendum on ***Sexual Harassment Prevention*** for information regarding the *institution's* prohibition against sexual harassment and how such complaints should be reported and will be investigated.

## Purpose

The purpose of this policy is to ensure that individuals are treated with dignity and respect, and in keeping with our values, are provided with equal employment opportunities and a workplace that is free from all forms of discrimination and harassment in compliance with applicable policy, laws and regulations regarding non-discrimination and non-harassment.

## Scope

This policy applies to all members of the organizational workforce, including team members, non-team members, volunteers, interns, students, vendors, contractors and other persons conducting business with the organization, as well as applicants for employment.

## Definitions

1. The term "discrimination," as used in this policy, refers to the differing treatment of an individual, in any aspect of employment, because of the individual's age, race, creed/religion, color, national origin, immigration status or citizenship status, sexual orientation, military or veteran status, sex/gender, gender identity, gender expression, disability, pregnancy, genetic predisposition or carrier status, marital or familial status, partnership status, and victim of domestic violence, sexual or other reproductive health decisions or any other protected status. The range of employment practices where discrimination is prohibited includes, but is not limited to: (i) hiring and firing; (ii) compensation, assignment, or classification of team members; (iii) transfer, promotion, layoff or recall; (iv) job advertisements; (v) recruitment; (vi) testing; (vii) use of organizational facilities; (viii) training and apprenticeship programs; (ix) fringe benefits; (x) pay, retirement plans and disability leave; and (xi) any other term and condition of employment.



2. Harassment consists of unwelcome conduct, whether verbal, physical or otherwise, that is based upon an individual or group of individuals' age, race, creed/religion, color, national origin, immigration status or citizenship status, sexual orientation, military or veteran status, sex/gender, gender identity, gender expression, disability, pregnancy, genetic predisposition or carrier status, marital or familial status, partnership status, and victim of domestic violence, sexual or other reproductive health decisions or any other protected status. The organization will not tolerate discrimination or harassing conduct that affects employment or benefits, that interferes with a team member's work performance, or that creates an intimidating, hostile, or offensive work environment. Such conduct can occur in the workplace, through social media or in other settings outside of the workplace that impact the work environment.

3. A perpetrator of discrimination or harassment can be a superior, subordinate, co-worker or anyone in the workplace, including an independent contractor, contract worker, vendor, patient, or visitor.

## Procedures

### A. Complaint and Investigation

1. Anyone who experiences, witnesses, or otherwise becomes aware of possible instances of discrimination or harassment must promptly report it to their Site HR department or a supervisor or manager.

a. If you do not know the number of your Site HR department, please call the Human Resources center.

b. You may also submit an anonymous report through the Compliance hotline.

2. The *institution* will investigate all complaints or information about suspected discrimination or harassment in a timely manner, even if there is a request no investigation occur.

3. Reports of discrimination or harassment and the terms of their resolution will be kept confidential to the extent possible without impeding the organization's ability to conduct an investigation.





4. Individuals are required to cooperate as needed in an investigation of suspected discrimination or harassment.

5. The *institution* forbids retaliation against anyone for reporting discrimination or harassment, assisting in making a discrimination or harassment complaint, or cooperating in an investigation of reported discrimination or harassment.

6. Due to the different function and confidential nature of the *institution's* Employee Assistance Program (EAP), complaints of discrimination or harassment made to those programs cannot be investigated pursuant to this policy.

## B. Manager and Supervisor Responsibilities

1. If a supervisor or manager receives a report of discrimination, harassment, or retaliation, or is otherwise aware of such conduct, it must promptly be reported to Human Resources, without exception.

a. Even if the supervisor or manager thinks the conduct is trivial.

b. Even if the team member asks that it not be reported.

2. Supervisors and managers will be subject to corrective action as necessary, including disciplinary action, up to and including employment termination, where appropriate for failing to report suspected discrimination, harassment, or retaliation, or otherwise knowingly allowing the prohibited conduct to continue.

3. Supervisors and managers will also be subject to disciplinary action outlined in HR Policy: Workforce Conduct.

## C. Retaliation

1. Retaliation under this policy is prohibited.



2. Retaliation is any significant action taken to negatively alter a team member's terms and conditions of employment (such as a demotion or unwarranted disciplinary action) or engagement because that team member engaged in a Protected Activity.
3. For purposes of this policy, Protected Activity includes in good faith: (i) reporting a complaint of discrimination or harassment; (ii) providing information or otherwise testifying or assisting in an investigation of a discrimination or harassment complaint; or (iii) encouraging a discrimination or harassment complaint.
4. To be deemed retaliation under the law, the negative action must have the effect of discouraging a reasonable person from complaining about discrimination or harassment.

#### D. Complaint Investigation

1. The *institution* will investigate all complaints or information about suspected discrimination or harassment in a timely manner. Such investigation will entail documentation and witness interviews, as appropriate, and be confidential to the extent possible without impeding the organization's ability to conduct an investigation.
2. All members of the *institution* workforce, including managers and supervisors, are required to cooperate with any investigation of discrimination or harassment.
3. All persons involved in an investigation of discrimination or harassment will be treated fairly and impartially.
4. Investigations about suspected discrimination or harassment against individuals at the VP Level and above (or the equivalent title) may be conducted by an outside investigator, at the discretion of the *institution*.
5. After the investigation is completed, a final determination will be made. Where it is determined that discrimination or harassment occurred, the *institution* will act promptly to end such conduct and impose disciplinary action as outlined in HR Policy: Workforce Conduct.



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## E. Communication and Training

1. This policy, including its addendum on Sexual Harassment Prevention, is posted on the organization's employee intranet so that all team members have access to the policy. Information contained in the policy is also discussed during the *institution's* orientation for new team members and annual mandatory training, as well as included in the Employee Handbook distributed to all new team members.
2. Additional periodic training regarding the topics including in this policy may be scheduled, as appropriate.



## 16. Disruptive Behaviors

### Background

Disruptive behaviors can lead to preventable adverse events, errors, and compromises in patient/employee safety and quality. The *Institution* promotes a safe, cooperative, and professional health care environment and takes measures to prevent and eliminate conduct that affects job performance and the delivery of quality patient care. The *institution* believes that a strong and capable work force is a direct result of how it treats its employees with respect to fairness and consistency.

While the *institution* will endeavor to follow the guidelines established in this policy, this policy and its contents should not be construed to negate or in any way alter the at-will employment relationship.

### Scope

The Disruptive Behaviors policy applies to all employees, physicians, volunteers and contracted employees at all business units and corporate offices of the *Institution*.

The interpretation, administration and monitoring for compliance of this policy shall be the responsibility of the chief Human Resource officer or his/her designees.

### Policy

The *Institution* has zero tolerance for intimidating or disruptive behaviors in the workplace and is committed to a culture of safety, which supports effective communication amongst team members. Zero tolerance requires that all allegations are investigated, and appropriate actions are taken, which may include coaching and/or corrective action up to and including termination of employment, based on the seriousness of the event. All employees, physicians, agency/contract employees, students and volunteers shall conduct themselves in a professional and cooperative manner according to the Code of Conduct. Disruptive behavior is a style of interaction with others that interferes with daily operations, affects the abilities of others to do their jobs and tends to cause distress among other team members. These actions could be overt or covert. Any conduct that is not specifically covered by these guidelines may subject an employee to corrective action if such conduct is harmful to the safety or rights of patients, visitors, employees or is otherwise detrimental to the safe, efficient, or effective operation of the *institution*. Examples include, but are not limited to:

- Refusal to do an assigned job





- Inappropriate response to a work order or reasonable request
- Refusal to work overtime when required
- Refusal to provide assistance
- Delay in carrying out an assignment
- Willfully engaging in conduct which slows or interferes with the effective operations of the *institution* or contributes to the slowdown of other employees including harassing, disturbing or annoying other employees
- Engages in grossly inappropriate behavior including but not limited to:
  - The use of abusive, profane, or other offensive language directed at, or in the presence of any employees, visitors or patients;
  - Engaging in obscene conduct;
  - Engaging in threatening/intimidating behavior either by word or gesture directed toward any direct reports, employees, visitors, or patients
  - Disorderly conduct, such as: engaging in verbal altercations, displaying anger, or shouting outbursts
  - Openly degrading colleagues in front of others
  - Offering cynical, sarcastic, or caustic remarks
  - Using degrading, abusive, or sarcastic language towards others
  - Engaging in sexual advances (refer to Harassment Policy)
  - Fighting, shoving, scuffling, or inciting other persons to engage in such actions
  - Engaging in horseplay;
  - Carrying or possessing weapons or other unauthorized dangerous materials on the premises;
  - Deliberately committing acts that cause damage or loss of, visitors', patients' or other employees' property;



- Disregarding rules, standards, ethical policies failure of good behavior or gross neglect of duty.
- Physical or verbal abuse (refer to Workplace Violence Policy)
- Engages in bullying behavior including but not limited to:
  - Falsely accusing colleagues of errors made or insubordination.
  - Staring, glaring, or other non-verbal demonstrations of hostility.
  - Maliciously excluding a person by refusing to communicate with them or leaving them out of activities.
  - Yelling, screaming, or humiliating the target, often in front of others.
  - Encouraging others to turn against the target.
  - Stealing credit for work.
  - Retaliating after a complaint is filed.
  - Imposing unrealistic demands/deadlines.
  - Sabotaging the target's work.
  - Personal attack of a person's private life and/or personal attributes.
  - Excessive or unjustified criticism/trivial fault finding.
  - Deliberately withholding information or over-monitoring of work in a way that negatively impacts target's workflow and work environment.
- Is careless with and/or willfully wasteful of the *institution* property, materials or supplies including:
  - Conducting personal business on the *institution* time
  - Loitering during working time
  - Does not maintain good personal hygiene and cleanliness and project a professional image, according to the Personal Appearance Standards policy.

## Procedures

### Reporting an event:



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An alleged occurrence of disruptive behavior will be documented in Risk, under the General Event Type of Professional Conduct. Provide:

- Identifying information of all parties involved
- Date/time of incident
- Witness information
- Specific facts associated with the incident
- Outcomes/ramifications of the incident

When an allegation of a standard of conduct, policy or procedure violation has been reported to a manager/ supervisor, the manager/supervisor shall immediately conduct an investigation to determine the validity of the allegation and shall respond back to the involved parties once the investigation has been completed.

The manager/supervisor shall investigate the event as soon as possible to resolve the incident, including meeting with both the individual affected by the disruptive behavior and the individual demonstrating the disruptive behavior.

If the employee's behavior is disruptive to normal business operations in any way or hazardous to patients, visitors, or others, the supervisor should:

- Immediately contact HR and the *institution* Security
- Obtain a written statement from the employee and all witnesses regarding the incident to be shared with HR, the *Institution* Security, and Risk Management as appropriate. (Note this is important in order to get the information when it is still fresh; however, in situations where the employee is disruptive or hazardous to others, the employee may be asked to leave, and a statement will be obtained within 24-48 hours. Witnesses may include staff, patients and visitors.)
- Suspend the employee pending the investigation outcome.
- Have the employee leave the *institution* property once his/her statement is completed.
- If it appears that the employee cannot be trusted to leave on his/her own, the employee will be escorted from the property.



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The manager/supervisor, in consultation with Human Resources, will determine the appropriate level of corrective action to be taken. All decisions resulting in suspension and termination of an individual must have the approval of the Human Resources department prior to taking such action.

Should an employee receive a suspension as a result of a disruptive behavior incident, a plan for monitoring progress to change behavior will be developed and documented.

Lack of improvements will be addressed by the supervisor and may result in progressive discipline per the Corrective Action Policy 5 (for non-leadership employees).

The manager/supervisor in consultation with Human Resources will determine if further training/remediation is necessary in order to ensure alignment of employee behaviors with organizational values.





## 17. Discrimination and Harassment Policy and Procedures

### Sections

- Section I: Purpose and Scope
- Section II: Prohibited Conduct
- Section III: Definitions
- Section IV: Reporting Discrimination, Harassment, and/or Retaliation
- Section V: Obligations of University Employees
- Section VI: Confidentiality and Confidential Resources
- Section VII: Procedures for Investigation and Resolution of Reports
- Section VIII: Education and Training

### Appendices

- Appendix D: External Government Resources

### Section I: Purpose and Scope

The *Institution* is committed to equal opportunity and providing a safe and non-discriminatory educational and working environment for its students, trainees, faculty, staff, post-doctoral fellows, residents, and other members of the *institutional* community. To that end, the university seeks to provide community members with an environment that is free from discrimination and harassment on the basis of sex, gender, marital status, pregnancy, race, color, ethnicity, national origin, immigration status, age, disability, religion, sexual orientation, gender identity or expression, military status, veteran status, or other legally protected characteristic. The University also is committed to providing individuals appropriate access to all academic and employment programs, benefits, and activities on the basis of demonstrated ability, performance and without regard to any protected characteristic.

The University's Discrimination and Harassment Policy ("Policy") is essential to its mission of excellence in education and research and applies to all academic programs, scholarship and loan programs, and athletic programs administered by the university, as well as its educational policies, admission policies, and employment policies. The Policy applies to all employment decisions, including those affecting hiring, promotion, demotion, or transfer; recruitment; advertisement of vacancies; layoff and termination; compensation and benefits; and selection for training. Consistent with the University's obligations under law,



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the Policy also extends to the maintenance of affirmative action programs for people of color, women, persons with disabilities and veterans.<sup>1</sup>

This Policy and these Procedures apply to all members of the University community, including, but not limited to, students, trainees, faculty, staff, post-doctoral fellows, and residents. It covers prohibited conduct that:

- occurs on campus or other University property;
- occurs in connection with University programs or activities, whether on or off-campus, including academic, educational, extracurricular, athletic and other programs and activities;
- impedes equal access to any University educational program or activity or adversely impacts the education or employment of a member of the University community, regardless of where the conduct occurred; or
- otherwise threatens the health or safety of a member of the University community.

In certain instances, this Policy and these Procedures apply to third parties (e.g., visitors; volunteers; vendors and contractors while on university property, participating in a University sponsored activity, or providing services to the University; applicants for admission to or employment with the University; and former affiliates of the University). This Policy and these Procedures apply regardless of an individual's sex, gender, marital status, pregnancy, race, color, ethnicity, national origin, immigration status, age, disability, religion, sexual orientation, gender identity or expression, military status, veteran status or other legally protected characteristic. All academic and administrative units of the University (including all schools, divisions, campuses, departments and centers) must comply, and ensure that their policies and procedures comply, with this Policy and these Procedures. To the extent there is any inconsistency between unit policies and procedures and this Policy and these Procedures, this Policy, and these Procedures control.

The University assigns a high priority to the implementation of its Discrimination and Harassment Policy, and significant university resources are devoted to assuring compliance with all laws prohibiting discrimination, harassment, and retaliation in employment and educational programs. The University's Vice Provost for Equity is responsible for assisting the university President and other university officers in the implementation of equal opportunity and affirmative action programs.

Conduct that is considered inappropriate or unacceptable within the community may



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nevertheless not amount to harassment under this Policy. However, when appropriate, the Office of Equity will report such conduct to the relevant internal University department or authority such as Human Resources, the Dean of Student Conduct, or the relevant department or dean to determine and implement appropriate responsive action.

Fundamental to the University's purpose is the free and open exchange of ideas. It is not, therefore, the University's purpose in promulgating this Policy to inhibit free speech or the free communication of ideas by members of the academic community.

The University may amend this Policy and these Procedures from time to time. Further, the Vice Provost of Equity, with the approval of the General Counsel, may from time to time make revisions and updates to this Policy and these Procedures to comply with applicable laws, regulations and governmental guidance and any amendments thereto. Nothing in this Policy and these Procedures shall affect the inherent authority of the University to take such actions as it deems appropriate to further the educational mission of the University or to protect the safety and security of the University community.<sup>2</sup>

Questions regarding this Policy and these Procedures and any questions concerning discrimination, harassment, or retaliation should be referred to the University's Vice Provost for Equity, or the University's Assistant Vice Provost and Title IX Coordinator ("Assistant Vice Provost").

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<sup>1</sup> The University complies with federal, state and local legal prohibitions against discrimination, harassment and retaliation. This Policy sets forth University policy and procedure, which may be broader or more rigorous than what is required by law. Nothing in this Policy is intended to waive any legal protections, arguments or defenses.



## Section II: Prohibited Conduct

The University prohibits discrimination and harassment based on any protected characteristic, which includes sex, gender, marital status, pregnancy, race, color, ethnicity, national origin, immigration status, age, disability, religion, sexual orientation, gender identity or expression, military status, veteran status or other legally protected characteristic.<sup>3</sup> The University further prohibits any form of retaliation, intimidation, threats, coercion, or discrimination or attempts thereof, whether direct or indirect, by any officer, employee, faculty, student, trainee, post-doctoral fellow, resident, or agent of the University against a person who makes a complaint or report of discrimination or harassment, participates in any way in the investigation or resolution of such a complaint or report, or exercises his or her rights or responsibilities under the Policy, these Procedures or the law.

This Policy and these Procedures apply to reports of disparate treatment discrimination based on sex, gender, sexual orientation and gender identity or expression, and discrimination and harassment based on marital status, pregnancy, race, color, ethnicity, national origin, immigration status, age, disability, religion, military status, veteran status or other legally protected characteristic, as well as related retaliation.

Sexual misconduct will be addressed under the Sexual Misconduct Policy and Procedures (SMPP). Sexual misconduct includes “Title IX Sexual Harassment” (and includes Title IX sex, gender, sexual orientation, and gender identity/expression-based harassment) and “Other Sexual Misconduct” (which includes non- Title IX sex, gender, sexual orientation, and gender identity/expression-based harassment). For reports involving *both* allegations under the SMPP as well as this Policy, the Vice Provost and Title IX Coordinator will determine the appropriate procedures to be applied to the non-SMPP allegations, which may be these Procedures, the Procedures for Title IX Sexual Harassment, or the Procedures for Other Sexual Misconduct.

Any person with a concern or complaint about a violation of this Policy is urged to contact the Vice Provost or Title IX Coordinator. Each member of the community is responsible for fostering mutual respect, for being familiar with this Policy, and for refraining from conduct that violates this Policy.

Members of the University community, including students, trainees, faculty and staff, and certain third parties (e.g., visitors, volunteers, vendors, and contractors while on university





property, participating in a university sponsored activity, or providing services to the University, or applicants for admission to or employment with the University, or former affiliates of the University) may bring complaints of violations of this Policy.

The University prohibits filing complaints or reports of discrimination, harassment and/or retaliation that the complainant knows to be false.

The University will take appropriate remedial action in response to violations of this policy, up to and including expulsion and/or termination.

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<sup>2</sup> This Policy and Procedures, which will not be applied retroactively, are effective August 14, 2020.

<sup>3</sup> Allegations of harassment based on sex, gender, sexual orientation and gender identity or expression are handled under the Sexual Misconduct Policy and Procedures while allegations of disparate treatment discrimination based on sex, gender, sexual orientation and gender identity or expression fall under this Policy.

## Section III: Policy Definitions

***Anonymous Complaints.*** Complaints of discrimination, harassment and/or retaliation filed with the University, including the Office of Equity, may be submitted anonymously, meaning that the complainant may file the complaint or report without identifying themselves. Anonymous reporters are encouraged to speak with the Vice Provost or Assistant Vice Provost for Equity, or an Office of Equity investigator, to understand the potential limitations for an investigation being conducted based on an anonymous report. See Section IV of this Policy for anonymous reporting options.

***Complainant.*** The term “complainant” refers to the alleged victim of discrimination, harassment and/or retaliation, whether reported by the alleged victim or a third party.

***Confidential Resources.*** “Confidential Resource” is a formal University designation given to certain University employees/departments exempt from any Responsible Employee obligations under this Policy. Confidential Resources do not have to report discrimination,



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harassment, or retaliation to the University. Confidential Resources include mental health providers and staff, healthcare providers and staff, pastoral counselors and staff, and any other persons who have a legal obligation to protect confidentiality when acting in a professional capacity unless there is an imminent threat to health or safety, or other basis for disclosure pursuant to law. Confidential Resources designated by the University include providers and staff at the Counseling Center, the Student Assistance Program, the Faculty and Staff Assistance Program, University Mental Health Services, student health centers operated by the University, the Gender Violence Prevention & Education Specialist, as well as chaplains and staff at the Community Center. Confidential Resources serve in that role at all times regardless of setting or specific activity. Confidential Resources are not Responsible Employees (defined below). All university personnel not specifically designated within Appendix B as Confidential Resources are considered non-confidential. If you have any question about whether you are a Confidential Resource or whether someone you would like to speak to is a Confidential Resource, please contact the Office of Equity for clarification.

***Discrimination:*** The term “discrimination” means treating a community member or group less favorably than a similarly situated community member or group because they are a member of a “protected class.”

***Gender Expression:*** The external appearance of one's gender identity, usually expressed through behavior, clothing, haircut or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.

***Gender Identity:*** One's innermost concept of self as male, female, a blend of both or neither – how individuals perceive themselves and what they call themselves. One's gender identity can be the same as or different from their sex assigned at birth.

***Harassment<sup>4</sup>:*** For purposes of this Policy, “harassment” is defined as any type of behavior which is based on an individual or group's membership in a “protected class(es)” that is: a) unwelcome and (b) creates a “hostile environment.”

Harassment when directed at an individual because of their membership in a “protected class(es)” may include, but is not limited to:



- Conduct, whether verbal, physical, written, graphic, or electronic that threatens, intimidates, offends, belittles, denigrates, or shows an aversion toward an individual or group;
- Epithets, slurs, and/or negative stereotyping, jokes, or nicknames;
- Written, printed, or graphic material that contains offensive, denigrating, and/or demeaning comments, and/or pictures; and
- The display of offensive, denigrating, and/or demeaning objects, e-mails, text messages, and/or cell phone pictures.

***Hostile Environment:*** A “hostile environment” results from unwelcome and discriminatory conduct that is so severe, pervasive, or persistent that it unreasonably interferes with, limits, or deprives a member of the community of the ability to participate in or to receive benefits, services or opportunities from the University’s education or employment programs and/or activities. A hostile environment can be the result of acts committed by any individual or individuals, including any member of the University community. To assess whether the alleged conduct has created a hostile environment, the University considers all relevant evidence, weighs a variety of factors, and evaluates the conduct at issue from both a subjective and objective perspective.

***Interim Measures:*** The term “interim measures” means reasonably available and feasible measures, accommodations, or steps the University may take following an incident and/or while a matter under these Procedures is pending to assist, support or protect the complainant, respondent, or another person and/or to protect the integrity of the investigation and resolution process. For examples of interim measures, see Section VII below. To discuss or request interim measures, please contact the Office of Equity.

***Preponderance of the Evidence:*** The “preponderance of the evidence” means it is more likely than not that a policy violation occurred (or did not occur) based on the evidentiary record.

***Protected Class<sup>5</sup>:*** A “protected class” is a group of people with a common characteristic who are legally protected from discrimination on the basis of that characteristic. The University prohibits discrimination on the basis of the following characteristics: race, color, national origin, immigration status, ethnicity, age, disability, religion, sex, gender, pregnancy, military status, veteran status, marital status, sexual orientation, gender identity or expression, genetic information, and other legally protected characteristics.



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**Respondent:** The term “respondent” refers to the person alleged to have committed discrimination or harassment in violation of this Policy.

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<sup>4</sup> As stated above, harassment matters based on the protected classes of sex, gender, sexual orientation, and gender identity/expression will be handled under the applicable procedures set forth in the Sexual Misconduct Policy and Procedures.

<sup>5</sup> The terms “protected category” and “protected status” are synonymous with “protected class” under this Policy.

**Responsible Employee:** “Responsible Employee” is a designation given to certain University employees who have a duty to report discrimination, harassment, or retaliation that they learn about to the Office of Equity. Confidential Resources are not Responsible Employees. Responsible Employees designated by the University include academic administrators, academic advisors, non-confidential employees serving in a supervisory role, department heads and chairs, directors, deans, student affairs staff, Office of Equity staff, faculty, Human Resources personnel, campus security officers, resident advisors, and athletic coaches. Responsible Employees must promptly report all known relevant information to the Office of Equity, including the names of the complainant, respondent, and any witnesses and any other relevant facts, including the date, time, and location of the misconduct. Faculty who are also licensed medical providers do not have a Responsible Employee obligation when providing patient care if the patient information that constitutes a report of potential misconduct under this Policy is protected by applicable patient privacy or other laws.

**Retaliation:** The term “retaliation” means intimidating, threatening, coercing, harassing, taking adverse employment or educational action against, and/or otherwise discriminating against an individual in any way because the individual made a report or complaint under this Policy or these Procedures, participated in any way in the investigation or resolution of such a report or complaint, opposed conduct that they reasonably believed to be prohibited under this Policy, these Procedures, or applicable law regarding discrimination or harassment, or exercised any right or responsibility under the Policy or these Procedures. Retaliation includes conduct that is reasonably likely to deter an individual from making a complaint or report under this Policy or from participating in the investigation or resolution of a complaint or report, or from opposing conduct that they reasonably believe to be





prohibited under this Policy, these Procedures or applicable law regarding discrimination or harassment.

## Section IV: Reporting Discrimination, Harassment or Retaliation

**Anonymous Complaints:** Complaints and reports may be made anonymously using any of the reporting options above. To make an anonymous complaint by any method above, do not provide your personally identifiable information (such as name, e-mail, phone numbers) when making the complaint or report.

**Reporting to Law Enforcement:** In an emergency, contact 911 to reach law enforcement. A listing of campus security and local law enforcement contact information is available in Appendix A. Campus security, the Vice Provost of Equity and the Assistant Vice Provost can also provide assistance with contacting local law enforcement.

**Speaking with Confidential Resources:** If a complainant does not wish to make a report or complaint to the University, the complainant may contact a Confidential Resource. See Appendix B for a list of Confidential Resources.

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### The Office of Equity

The University's Office of Equity is responsible for receiving and handling complaints of discrimination, harassment and retaliation. The Office of Equity is a neutral resource available to all students, faculty and staff.

The Vice Provost for Equity (the "Vice Provost") is responsible for the Office of Equity and is the University's senior equal opportunity official.

The Vice Provost and the University's Assistant Vice Provost work within the Office of Equity and coordinate the University's efforts to comply with state and federal laws



governing discrimination, harassment, and retaliation; oversee the University's related policies and procedures; explain the operation of the complaint resolution process; ensure that the University responds appropriately to complaints of discrimination, harassment and retaliation; coordinate training related to discrimination, harassment and retaliation; and provide or oversee the provision of information to members of the University community, including the complainant and the respondent, concerning discrimination, harassment and retaliation and this Policy and these Procedures, the availability of confidential and other resources and interim measures.

The Vice Provost and the Assistant Vice Provost also coordinate, oversee, or conduct the investigation of discrimination, harassment and retaliation complaints. No employee or student is authorized to investigate or resolve such complaints without the express direction of the Vice Provost or Assistant Vice Provost. If an employee or student is unsure whether particular conduct involves discrimination, harassment and/or retaliation, they should contact the Office of Equity.

a. ***Reports of Discrimination, Harassment and Retaliation***

The University encourages students, faculty, staff, and other members of the community to report discrimination, harassment and retaliation, and to do so as promptly as possible, so that the University can respond effectively. Anyone may meet with or talk to the Vice Provost, Assistant Vice Provost, or a designee to learn more about the process before making a report. Note, Responsible Employees (discussed below) who receive reports or otherwise become aware of discrimination, harassment and retaliation are required to promptly report such information to the Office of Equity.

A complainant may ask the Office of Equity to keep their identity confidential and/or not to take further action, but the Office of Equity will independently determine whether to investigate the allegations, weighing the complainant's interest in confidentiality against any risk that not investigating the incident may contribute to a hostile environment or pose a threat to the safety and security of the University community.

Reports of discrimination, harassment and/or retaliation may be filed anonymously, meaning that the individual submits the complaint without identifying themselves. Anonymous reporters are encouraged to speak with the Vice Provost, Assistant Vice Provost or an Office of Equity investigator so as to understand the potential limitations



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of an investigation being conducted based on an anonymous report.

If a complainant is under the age of 18 (i.e., a minor), the University will adhere to its Policy on the Safety of Children in University Programs, as well as to applicable law.

When a third party (e.g., a faculty member, resident advisor, friend, or roommate) reports a discrimination, harassment and/or retaliation incident, the Vice Provost, Assistant Vice Provost, or a designee will promptly notify the complainant that a report has been received, and this Policy and these Procedures will apply in the same manner as if the complainant had made the initial report.

Upon receiving a report of discrimination, harassment and/or retaliation, whether from a third party or directly from the complainant, the Vice Provost, Assistant Vice Provost or a designee will determine if any immediate action or interim measures should be implemented.

If a respondent is not a member of the University community or the respondent's identity is not known, the University will still make efforts to assess the alleged discrimination, harassment and/or retaliation. The Vice Provost, Assistant Vice Provost or designee will also assist complainants in identifying appropriate campus and external resources.

The University does not limit the time for submitting a report of discrimination, harassment and/or retaliation and encourages all reports irrespective of when the underlying incident occurred. The University's ability to investigate and respond effectively may be reduced with the passage of time.

a. ***Notice of Rights***

Upon receiving a report of discrimination, harassment and/or retaliation, the Office of Equity will send the complainant a copy of or link to this Policy and an invitation to discuss the matter with the Vice Provost, Assistant Vice Provost or a designee.

b. ***Maintenance and Privacy of Records***

The University will maintain a record of all reports of discrimination, harassment and retaliation and related evidence, documents, records, and information pertaining to the



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investigation and resolution of the complaints. These records will be maintained in accordance with applicable policies, procedures and legal requirements.

c. ***Reporting to Law Enforcement or Government Agencies***

Depending on the facts and circumstances, discrimination, harassment and/or retaliation may involve criminal activity, such as a hate crime.<sup>6</sup> The University encourages students, faculty, staff and other members of its community to report any potential criminal conduct to law enforcement authorities, and the University may do so in a health or safety emergency.

Reporting an incident to law enforcement authorities does not preclude filing a complaint with the University. Individuals may file reports of discrimination, harassment and/or retaliation under this Policy before, after, or simultaneously with reporting an incident to law enforcement, or if no report is made to law enforcement at all. Whether or not an incident results in a criminal investigation, prosecution or conviction, the University will decide, pursuant to these Procedures, whether the respondent has violated the Policy and, if so, what sanctions to impose.

a. ***Clery Reporting Obligations***

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (the “Clery Act”) requires the University to record and report certain information about certain crimes (including certain hate crimes) that occur on or near campus. Certain University employees who are designated as Campus Safety Authorities (CSAs) and who receive reports of certain types of crimes are required by the Clery Act and the University to notify Campus Safety and Security about such incidents for statistical reporting purposes. The University reports crimes as required by the Clery Act in its Campus Crime Blotter, Clery Crime Log, and Annual Security and Fire Safety Report available online on the Campus Safety and Security website. The Clery Act also requires the University to issue a “timely warning” when it receives a report of certain crimes that pose a serious or continuing threat to the safety of the campus community. Campus Safety and Security will issue timely warnings in accordance with the University’s Timely Warning Policy. Personally identifiable information about complainants will not be included in any timely warning or security notification, or in any publicly available record-keeping, including the disclosure of crime statistics in the Annual Security and Fire Safety Report.





b. *Other Reporting Options*

Inquiries or reports concerning discrimination, harassment and/or retaliation or the University's handling of such inquiries or complaints may be referred to the Department of Education's Office for Civil Rights. Employee reports may also be referred to the U.S. Equal Employment Opportunity Commission. Contact information is located in Appendix D.

## Section V: Obligations of University Employees

All Responsible Employees who receive reports or otherwise become aware of possible discrimination, harassment and/or retaliation are required to promptly report such misconduct to the Office of Equity.

Responsible Employees must report all known relevant information to the Office of Equity, including the names of the complainant, respondent, and any witnesses and any other relevant facts, including the date, time, and location of the misconduct. Confidential Resources discussed in the section immediately below are exempt from the above reporting requirement.

All University personnel, including Responsible Employees and Confidential Resources, are charged with protecting and respecting the privacy of complainants, respondents, and any witnesses to the extent possible. Information about discrimination, harassment and/or retaliation should be shared only with those who have a need to know such information. University personnel must participate in required training on issues of discrimination, harassment and retaliation.

Community members who are not Responsible Employees are encouraged to report any concerns about discrimination, harassment and retaliation as soon as possible to the Vice Provost or Assistant Vice Provost.

<sup>6</sup> In the Clery Act hate crimes are defined as any crime motivated by perpetrator bias against the victim based on race, religion, gender, gender identity, sexual orientation, ethnicity, national origin, and disability (whether actual or perceived).

No employee is authorized to investigate or resolve reports or complaints of discrimination,



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harassment and/or retaliation without the express direction of the Vice Provost or Assistant Vice Provost. If any Responsible Employee has a question about their designation or duties as a Responsible Employee, please contact the Office of Equity.

## Section VI: Confidentiality and Confidential Resources

A complainant may request confidentiality, for example that the complainant's identity not be disclosed to anyone else, including the respondent, or that information about the incident not be shared with others. The Vice Provost or Assistant Vice Provost will consider any requests for confidentiality or requests that an investigation not be pursued in light of the University's commitment to provide a safe and non-discriminatory environment for all members of the community.<sup>7</sup> For example, if the Vice Provost or Assistant Vice Provost concludes that the allegations about the respondent suggest a threat to the community, create a hostile environment, or otherwise require responsive action by the University, the request for confidentiality may not be granted. If the University honors a request for confidentiality, the University's ability to investigate and respond to the reported misconduct and pursue disciplinary action against the respondent may be limited. The University will, however, take all reasonable steps to investigate and respond to the complaint consistent with a request that has been honored. If the Vice Provost or Assistant Vice Provost determines that the University will not honor a complainant's request for confidentiality, the Vice Provost or Assistant Vice Provost or a designee will inform the complainant prior to starting an investigation. In all circumstances, the University will make appropriate interim measures available, provide access to resources, and take such other actions as necessary and appropriate to protect the safety and security of the parties and the University community.

If an individual desires to keep the details of any incident(s) of discrimination, harassment and/or retaliation confidential, the individual may speak to a Confidential Resource. Information shared with Confidential Resources does not constitute a report filed with the University.

<sup>7</sup> The Vice Provost or Title IX Coordinator may also consider a complainant's request for confidentiality in conjunction with other legal obligations, such as compliance with court orders, governmental investigations and proceedings, and litigation requests related to the complaint.



## Section VII: Procedures for Investigation and Resolution of Discrimination, Harassment, and Retaliation Cases

### a. *Interim Measures*

The Office of Equity will work with all affected persons to ensure their safety and promote their well-being. This assistance may include the provision of interim measures following an incident or while a matter under these Procedures is pending in order to assist, support or protect an individual and/or to protect the integrity of an investigation or resolution process. Both complainants and respondents will have equal access to appropriate and reasonably available and feasible interim measures.

Upon receipt of a report, the Vice Provost or Assistant Vice Provost or a designee will provide written notice to the complainant of the interim measures that may be available and feasible. Similar notice will be provided to the respondent upon the initiation of an investigation. Interim measures are afforded whether or not the complainant reports the matter to Campus Safety and Security or law enforcement, or files a complaint with the University.

Interim measures will be implemented by a divisional dean or director or other appropriate authority at the individual's school, division, campus, department, or center, under the direction of the Vice Provost or Assistant Vice Provost. The division dean or other appropriate authorities, in conjunction with the Vice Provost or Assistant Vice Provost, will communicate with other University personnel to ensure that they make appropriate interim measures available. The University will maintain as confidential any interim measures to the extent that maintaining such confidentiality would not impair the ability of the University to provide the measures.

Interim measures may include, but are not limited to:

- Adjusting work schedules;
- Changing academic schedules;
- Changes to division organizational structure;
- Paid/Unpaid Leave;
- Parking and/or transportation accommodations;



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- Rescheduling examinations;
- Allowing withdrawal from or re-taking classes without penalty;
- Providing access to tutoring or other academic support;
- Prohibiting attendance at group or organizational informal or formal functions overseen by the University;
- Moving on-campus residences;
- Ban from campus;
- Suspension;
- Issuing “no contact” orders;
- Assistance connecting with medical and/or mental health services;
- Change in dining location;
- Access to safety escort services; and
- Assistance connecting with a supporter.

Violations of no contact orders and failures to comply with other interim measures may result in disciplinary action pursuant to the student conduct code or relevant divisional policy for faculty and staff.

## ***b. Investigations of Discrimination, Harassment, and Retaliation Cases***

Except as specifically noted herein, these Procedures apply to any report of discrimination, harassment, and/or retaliation across the University, regardless of the status of the respondent.

Complainants and respondents are expected to check their official University e-mail on a regular basis throughout any complaint investigation and resolution process. University e-mail is the primary way in which complainants and respondents will receive communications from the Office of Equity.

### ***i. Investigative Process***

When the Office of Equity receives a report of discrimination, harassment and/or retaliation, the Vice Provost or Assistant Vice Provost will determine whether to initiate an investigation. In some cases, the Office of Equity may need to engage in limited fact-gathering to make an assessment as to whether a report should be investigated. The determination as to whether to initiate an investigation will take into account whether the alleged conduct





violates the Policy, as well as any requests by the complainant for the matter not to be investigated or for confidentiality.

If an investigation is opened, the Vice Provost, Assistant Vice Provost or a designee will notify the complainant and respondent in writing of the alleged violation being investigated. The Vice Provost, Assistant Vice Provost or a designee reserves the right to amend or supplement the notice at any time and will provide the complainant and respondent with notice of any such changes in the scope of the investigation. The Vice Provost, Assistant Vice Provost or a designee will also ensure that both the complainant and respondent are updated appropriately and equivalently throughout the investigative process. The complainant and/or respondent may decline to participate in the investigation or resolution process. The University may continue the process without the complainant's and/or respondent's participation.

If the facts surrounding a report of discrimination, harassment and/retaliation also involve other alleged violations of University policy, including, but not limited to, student codes of conduct, the Vice Provost, Assistant Vice Provost or a designee may also investigate such other alleged violations or refer them to the appropriate authority, such as Student Conduct or Human Resources. As noted above, for reports involving *both* allegations under the SMPP as well as this Policy, the Vice Provost and Title IX Coordinator will determine the appropriate procedures to be applied to the non-SMPP allegations, which may be these Procedures, the Procedures for Title IX Sexual Harassment or the Procedures for Other Sexual Misconduct.

## *ii. Informal Resolution*

If the complainant and respondent agree, certain cases may be resolved informally. Some cases may not be suitable for informal resolution. Informal resolution may also be unavailable if the Office of Equity determines that it is inappropriate based on the facts and circumstances of the particular case. All informal resolutions will be conducted or overseen by the Vice Provost, Assistant Vice Provost or a designee. If the informal resolution process is unsuccessful for any reason, the Vice Provost, Assistant Vice Provost or designee will determine whether to conduct a formal investigation. If a matter is resolved through informal resolution, the parties will receive a written notice of the outcome memorializing the terms of the informal resolution.



### *iii. Conflict of Interest Policy*

All persons participating in the investigation or the informal resolution of discrimination, harassment and/or retaliation cases should disclose any potential or actual conflict of interest to the Office of Equity. If the complainant or the respondent believes that any person involved in the process has a conflict of interest, they may make a request to the Vice Provost or Assistant Vice Provost that the individual not participate. Any such request should include a description of the alleged conflict. If the Vice Provost or Assistant Vice Provost determines that a conflict of interest exists, the Office of Equity will take steps to address the conflict in order to ensure an impartial process.

### *iv. Supporters*

The complainant and the respondent may be assisted and advised by a supporter of their choice, including legal counsel or a union representative, throughout the investigative and informal resolution process. The supporter may not be any individual who is a potential witness in the investigation. The supporter may accompany the party to any meeting held pursuant to this Policy. Prior to participating in the investigation or resolution process, the supporter shall meet with the Vice Provost, Assistant Vice Provost or the Office of Equity investigator to discuss the process. During any meeting or proceeding under these Procedures, a supporter (whether or not legal counsel) may advise and provide support to the party but may not speak on the party's behalf or otherwise participate, or address or question the investigator, other parties or witnesses. The supporter may make written submissions on the party's behalf.

University personnel employed in the offices responsible for the disciplinary proceedings described in these Procedures, along with those in the chain of command above them, personnel employed by the Office of the General Counsel, and others whose participation could create a conflict of interest and/or reasonably call into question the impartiality of the University's process are not eligible to serve as supporters. If there is a question or concern about a possible supporter, please consult with the Vice Provost or Assistant Vice Provost.

### *v. Time Frame*

The University will seek to resolve cases of discrimination, harassment, and/or retaliation,



as soon as is practicable after an investigation commences. Typically, the investigation of a report takes 2 to 6 months to complete depending upon the nature and scope of the allegations; the number of witnesses involved; the availability of the parties, witnesses, or evidence; evidence gathering in a concurrent law enforcement investigation; and the academic calendar (e.g., exam periods, breaks, etc.). The University will not delay its processes to await the conclusion of a concurrent criminal investigation beyond the evidence-gathering phase. The University will provide the complainant, respondent and dean or other relevant authority periodic updates on the status of the investigation.

#### *vi. Fact-Gathering Process*

The Office of Equity will gather facts related to the allegations of discrimination, harassment and/or retaliation. The Vice Provost or Assistant Vice Provost will designate one or more trained internal or external investigators to interview the complainant, respondent, and witnesses. The investigator may conduct additional interview(s) of the complainant, respondent or other witnesses. Investigators will also gather pertinent documents and other evidence identified by either party or a witness, or that otherwise comes to their attention. The investigators will request that the complainant, respondent, witnesses, and other interested individuals preserve any relevant evidence, including documents, text messages, voice messages, e-mails, and postings on social media.

#### *vii. Investigative Report*

Upon completion of the fact-gathering process, the investigator will consider all relevant evidence and prepare a report. The report will include the investigator's findings of fact, analysis of the facts based upon the preponderance of the evidence standard, and a determination as to whether the respondent is responsible for the alleged violation(s) by a preponderance of the evidence.

The full report will be provided to the dean, director or relevant decision-maker via e-mail or OneDrive. A summary of the report will be provided to the complainant and the respondent via e-mail or OneDrive. Witnesses will receive a notification that the investigation has been concluded via e-mail. Pursuant to FERPA, students may request the portions of the Office of Equity file that constitute their own educational records.

#### *c. Resolution Procedures for all Discrimination, Harassment and Retaliation Investigations*



Resolution of discrimination, harassment and/or retaliation complaints in which the respondent is a staff member will be governed by the procedures in the University's personnel policies, except as provided herein. Resolution, sanctions and appeals of discrimination, harassment and/or retaliation investigations in which the respondent is a member of the faculty, post-doctoral fellow, or resident will be processed by the office of the dean of the appropriate division according to the disciplinary procedures established by that division, except as provided herein.

Other divisional or university policies may afford further process following the completion of these resolution procedures.<sup>9</sup>

d. ***Resolution Procedures for Discrimination, Harassment and Retaliation Investigations Involving Student Respondents***

If the respondent in a complaint of discrimination, harassment<sup>10</sup> and/or retaliation is a student, the Office of Equity will notify Student Affairs and commence an investigation pursuant to this Policy and these Procedures. The Office of Equity will evaluate the facts according to the standards articulated in this Policy and prepare a report, which the Office of Equity will issue to Student Affairs. Any resulting disciplinary action will be determined by Student Affairs.

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<sup>9</sup> For example, faculty may consult with their Department Chair and staff may consult with Human Resources.

<sup>10</sup> As stated above, harassment matters based on the protected classes of sex, gender, sexual orientation, and gender identity/expression will be handled under the Sexual Misconduct Policy and Procedures.

## **Section VIII: Education and Training**

The Office of Equity offers a number of courses dedicated to training supervisors, faculty and staff on preventing discrimination, harassment and retaliation, promoting diversity and collaboration, and addressing bias. Please visit the Office of Equity's website to view training options or to plan a live training. All new students, staff and faculty are required to complete online training on harassment prevention.





## APPENDIX D

### EXTERNAL GOVERNMENT RESOURCES

The government resources listed below may provide additional assistance for students wishing to file an external complaint of sexual misconduct, students with inquiries regarding the application of Title IX and its implementing regulations, or students wishing to file an external complaint against the University:

#### U.S. Department of Education

Office for Civil Rights

Philadelphia Office

The Wanamaker Building

100 Penn Square East, Suite 515

Philadelphia, PA 19107

(215) 656-8541

[OCR.Philadelphia@ed.gov](mailto:OCR.Philadelphia@ed.gov)

<http://www.ed.gov/ocr>

#### EEOC Field Office

<https://www.eeoc.gov/field>

#### Commission on Civil Rights

## 18. Policy on Harassment, Discrimination, and Sexual Misconduct

Sexual misconduct includes but is not limited to sexual harassment, sexual abuse, sexual assault, domestic violence, dating violence, and stalking.

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## **Policy Appendices**

- I. Support Services and Resources for Those Who Have Experienced Sexual Misconduct
- II. Yearly Report on Harassment and Sexual Misconduct to the Council of the University Senate
- III. Compliance and Locating This Policy
- IV. Related Policies

### **I. Introduction**

The *Institution* is a community of scholars dedicated to research, academic excellence, and the pursuit and cultivation of learning. Members of the University community cannot thrive unless each is accepted as an autonomous individual and is treated without regard to characteristics irrelevant to participation in the life of the University. Freedom of expression is vital to our shared goal of the pursuit of knowledge and should not be restricted by a multitude of rules. At the same time, unlawful discrimination, including harassment, compromises the integrity of the University. The University is committed to taking necessary action to prevent, correct, and, where indicated, discipline unlawful discrimination.



Sexual misconduct may violate the law, does violate the standards of our community, and is unacceptable at the *Institution*. Sexual misconduct can be devastating to the person who experiences it directly and can adversely impact family, friends, and the larger community. Regardless of the definitions provided below, people who believe they have experienced any sexual misconduct are encouraged to report the incident and to seek medical care and support as soon as possible.

Matters that constitute Title IX Sexual Harassment under the University Policy on Title IX Sexual Harassment. The University Policies are not within the scope of this Policy and will be addressed under the procedures set forth in the Policy on Title IX Sexual Harassment.

## II. Policy Basis and Application

This policy expresses the University's commitment to an environment free from discrimination, sexual harassment and other unlawful forms of harassment, sexual misconduct, sexual assault, domestic violence, dating violence, and stalking and conforms to legal requirements. It applies to students and other program participants, staff, postdoctoral researchers, faculty, and other academic appointees, volunteers, as well as to anyone on whom the University has formally conferred a title, regardless of employment status. The University provides education and prevention resources, offers numerous support services and referrals for anyone who has experienced unlawful harassment or one of these crimes, encourages and facilitates reporting, which can assist prosecution, and is committed to disciplining anyone whom University procedure determines to have violated this policy.

This policy applies to misconduct that occurs: (1) on university property; or (2) off university property, if: (a) the conduct occurred in connection with a university or university-sponsored or recognized program or activity; or (b) the conduct has or reasonably may have the effect of creating a hostile educational or work environment for a member of the University community. For example, this policy applies to misconduct that occurs between students during an off-campus party in a private residence, during a university-sponsored study abroad program, or during research- or conference-based university-supported travel. Also, misconduct that occurs off-campus and involves an alleged student perpetrator and an unaffiliated complainant is subject to investigation and adjudication, although the circumstances may be such that the inquiry is limited to assessing whether the student poses a threat to campus safety.



### III. Unlawful Harassment and Discrimination

Discrimination based on factors irrelevant to admission, employment, or program participation violates the University's principles. In keeping with its long-standing traditions and policies, the *Institution* considers students, employees, applicants for admission or employment, and those seeking access to programs on the basis of individual merit. The University does not discriminate on the basis of race, color, religion, sex, sexual orientation, gender identity, national or ethnic origin, age, status as an individual with a disability, protected veteran status, genetic information or other protected classes under the law. Such discrimination is unlawful.

Harassment based on the actual or perceived factors listed above is verbal or physical conduct or conduct using technology that is so severe or pervasive that it has the purpose or effect of unreasonably interfering with an individual's work performance or educational program participation, or that creates an intimidating, hostile, or offensive work or educational environment.

A person's subjective belief that behavior is intimidating, hostile, or offensive does not make that behavior harassment. The behavior must be objectively unreasonable. Expression occurring in an academic, educational or research context is considered a special case and is broadly protected by academic freedom. Such expression will not constitute harassment unless (in addition to satisfying the above definition) it is targeted at a specific person or persons, is abusive, and serves no bona fide academic purpose.

Harassment includes same-sex harassment and peer harassment among students, staff, other academic appointees, postdoctoral researchers, faculty members, program participants, volunteers, and anyone on whom the University formally confers a title, regardless of employment status. Harassment by a faculty member, instructor, or teaching assistant of a student over whom the individual has authority, or by a supervisor of a subordinate, is particularly serious.

### IV. Sexual Misconduct and Definitions

Sexual misconduct encompasses a range of conduct, from sexual assault (a criminal act that the U.S. Department of Education defines as a form of sexual harassment) to conduct such as unwanted touching or persistent unwelcome comments, e-mails, or pictures of an





insulting or degrading sexual nature, which may constitute unlawful harassment, depending upon the specific circumstances and context in which the conduct occurs. For example, sexual advances, requests for sexual favors, or sexually-directed remarks or behavior constitute sexual harassment when (1) submission to or rejection of such conduct is made, explicitly or implicitly, a basis for an academic or employment decision, or a term or condition of either; or (2) such conduct directed against an individual persists despite its rejection.

In compliance with the Violence Against Women Reauthorization Act of 2013 (“VAWA”) and the Clery Act, the University uses the State Criminal Code’s definitions of sexual assault and sexual abuse. The University incorporates the State’s definitions of several other important terms, including domestic violence, dating violence, and stalking and recognizes that sexual assault, domestic violence, dating violence, and stalking are not gender-specific crimes. To aid searches, definitions are provided in alphabetical order.

**“Accused” or “Respondent”** means a person accused of conduct prohibited by this policy and does not imply pre-judgment.

**“Consent”** means voluntary, active and clear agreement, communicated by words or actions, to participate in specific sexual activity. Consensual sexual activity happens when each participant willingly chooses to participate. In cases where a victim asserts that sexual activity occurred without consent, the standard is whether a sober, reasonable person in the same circumstances as the respondent should have known that the victim did not or could not consent to the sexual activity in question.

In some states, the legal age of consent is 17 but rises to 18 if the respondent holds a position of trust, authority, or supervision in relation to the victim. This means that there can be no consent when one participant in the sexual activity is under the legal age of consent and any other participant is at or over the legal age of consent.

Consent is such a critical factor that Section V is entirely dedicated to discussing it.

**“Dating violence”** means the use or threat of use of physical abuse, mental or emotional abuse, or sexual violence by a person who is in a social relationship of a romantic or intimate nature with the victim.



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**“Domestic violence”** means harassment, interference with personal liberty, intimidation of a dependent, physical abuse, or willful deprivation by a person who is or was a family or household member of the victim. A family or household member includes: a spouse, former spouse, parent, child, stepchild, or other person related by blood or by present or prior marriage; a person who shares or formerly shared a common dwelling; a person who has or allegedly has a child in common or shares a blood relationship through a child; a person who has a dating or engagement relationship; a personal assistant to a person with a disability; and a caregiver.

**“Force or threat of force”** means the use of force or violence, or the threat of force or violence, including but not limited to (1) when the respondent threatens to use force or violence on the victim or on any other person, and the victim under the circumstances reasonably believes that the respondent has the ability to execute that threat or (2) when the respondent has overcome the victim by use of superior strength or size, physical restraint or physical confinement.

**“Harassment”** as a form of unlawful discrimination means verbal conduct, physical conduct, or conduct using technology that is based on a protected class and that is so severe or pervasive that it has the purpose or effect of unreasonably interfering with an individual’s work performance or educational program participation, or that creates an intimidating, hostile, or offensive work or educational environment. “Harassment” for purposes of domestic violence is knowing conduct that is not necessary to accomplish a purpose, would cause emotional distress to a reasonable person and does cause emotional distress to the victim.

**“Interference with personal liberty”** is committing or threatening physical abuse, harassment, intimidation, or willful deprivation to force a victim to engage in conduct from which that person has the right to abstain, or to abstain from conduct in which that person has a right to engage.

**“Intimidation of a dependent”** is subjecting a person who is a dependent because of age, health or disability to participate in or to witness physical force, physical confinement or restraint of another person.

**“Policy Personnel”** includes anyone with a role under this Policy, including but not limited to the Title IX coordinator, deputy Title IX coordinator(s), investigator(s), decisionmaker(s), review decisionmaker(s), or informal resolution facilitator(s).



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**“Physical abuse”** includes sexual abuse and means any of the following: (1) the knowing or reckless use of physical force, confinement, or restraint; (2) knowing, repeated, and unnecessary sleep deprivation; and/or (3) knowing or reckless behavior that creates an immediate risk of physical harm.

**“Individual with Reporting Responsibilities”** means any faculty member, other academic appointee, postdoctoral researcher, or staff employee who would reasonably be expected to have the authority or duty to report or take action to redress sexual misconduct. An Individual with Reporting Responsibilities must promptly notify the Title IX coordinator for the University all known details related to a possible incident of sexual misconduct (including sexual harassment), dating violence, domestic violence, and stalking that is reported to them directly, indirectly, or through a third party, or that they may have observed. Individuals with Reporting Responsibilities include (among others) faculty and instructors, RAs, resident heads, resident deans, TAs, preceptors, and other University employees.

**“Retaliation”** means any adverse action taken against a person participating in a protected activity because of their participation in that protected activity. Retaliation against an individual for alleging harassment, supporting a party bringing a complaint, or assisting in providing information relevant to a claim of harassment is a serious violation of the University policy and will be treated as another possible instance of harassment or discrimination. Acts of alleged retaliation should be reported immediately to the Title IX Coordinator for the University and will be promptly investigated.

**“Sexual abuse”** means an act of sexual conduct:

- Without consent; or
- By the use of force or threat of force; or
- When the accused knew that the victim was unable to understand the nature of the act or was unable to give knowing consent; or
- In certain states, where the accused is under 17 years of age and the victim was at least 9 years of age but under 17 years of age when the act was committed; or
- In which the accused delivered (by injection, inhalation, ingestion, transfer of possession, or any other means) to the victim without their consent, or by threat or deception, and for other than medical purposes, any controlled substance.

**“Sexual assault”** means an act of sexual penetration:

- Without consent; or
- By the use of force or threat of force, including threatening or endangering the life of the





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victim or any other person; or

- Where the accused knew that the victim was unable to understand the nature of the act or was unable to give knowing consent; or
- In certain states, with a victim who was under age 17 when the act was committed, or with a victim who was under age 18 when the act was committed and the accused was age 17 or more and held a position of trust, authority, or supervision in relation to the victim; or
- In which the accused delivered (by injection, inhalation, ingestion, transfer of possession, or any other means) to the victim without their consent, or by threat or deception, and for other than medical purposes, any controlled substance.

**“Sexual conduct”** means any intentional or knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus, or breast of the victim or the accused, or any part of the body of a child under 13 years of age, or any transfer or transmission of semen by the accused upon any part of the clothed or unclothed body of the victim, for the purpose of sexual gratification or arousal of the victim or the accused.

**“Sexual penetration”** means any contact, however slight, between the sex organ or anus of one person and an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio, or anal penetration.

**“Stalking”** means a course of conduct (two or more acts) directed at a specific person that would cause a reasonable person to fear for their safety or the safety of a third person, or to suffer emotional distress. Stalking behavior includes but is not limited to: following a person; appearing at a person’s home, work, or school; making unwanted phone calls; sending unwanted emails or text messages; leaving objects for a person; vandalizing a person’s property; injuring a person’s pet; and monitoring or placing a person under surveillance.

**“Supportive Measures”** are non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to a Complainant or Respondent in matters involving sexual misconduct. Such measures are designed to restore or preserve equal access to the University’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the University’s educational environment and deter sexual misconduct. Supportive Measures may include but are not limited to counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus





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escort services, mutual restrictions on contact between parties, changes in work or housing locations, adjustments to dining arrangements, leaves of absence, increased security or monitoring of certain areas of the campus, and honoring an order of protection or no-contact order entered by a State civil or criminal court. The University will maintain as confidential any supportive measures provided to the Complainant or Respondent, to the extent that maintaining such confidentiality would not impair the ability of the University to provide the Supportive Measures.

**“Victim”** means a person alleging to have been subjected to conduct prohibited by this policy and does not imply pre-judgment. The term “victim” is used interchangeably with the term “complainant” in this policy.

**“Willful deprivation”** is the purposeful denial of medication, medical care, shelter, food, or other assistance to a person who requires such things because of age, health or disability, thereby putting that person at risk of physical, mental, or emotional harm.

## V. Consent

### What is Consent?

- Consent means voluntary, active and clear agreement, communicated by words or actions, to participate in specific sexual activity. Consensual sexual activity happens when each participant willingly chooses to participate. It is the responsibility of the person who wants to engage in a sexual activity to obtain the consent of the other person for that sexual activity. Consent may also be withdrawn or modified at any time by the use of clearly understandable words or actions.
- In cases where a victim asserts that sexual activity occurred without consent, the standard is whether a sober, reasonable person in the same circumstances as the accused should have known that the victim did not or could not consent to the sexual activity in question.
- The definition of consent does not vary based upon a person’s sex, sexual orientation, gender identity, or gender expression.
- Consent is best obtained through direct communication about the decision to engage in specific sexual activity. Consent need not be verbal, but verbal communication is the most reliable and effective way to seek, assess, and obtain consent. Non-verbal



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communication often is ambiguous. For example, heavy breathing can be a sign of arousal, but it also can be a sign of distress. Talking with sexual partners about desires, intentions, boundaries and limits can be uncomfortable, but it serves as the best foundation for respectful, healthy, positive and safe intimate relationships.

## What is not Consent?

- Consent cannot be obtained by threat of harm, coercion, intimidation, or by use or threat of force.
- The lack of explicit consent does not imply consent and likewise, the lack of verbal or physical resistance does not constitute consent. Thus, silence, passivity, submission, and/or the lack of resistance (including the absence of the word “no”) do not—in and of themselves—constitute consent.

## Incapacitation

Consent cannot be obtained from someone who is unable to understand the nature of the activity or give knowing consent due to circumstances. A person is mentally or physically incapacitated when that person lacks the ability to make or act on considered decisions to engage in sexual activity, *i.e.*, when a person’s perception and/or judgment is so impaired that the person lacks the cognitive capacity to make or act on conscious decisions, including without limitation the following circumstances:

- The person is incapacitated due to the use or influence of alcohol or drugs, or due to a mental disability. Alcohol and drugs can impair judgment and decision-making capacity, including the ability to rationally consider the consequences of one’s actions. The effects of alcohol and drug consumption often occur along a continuum. For example, alcohol intoxication can result in a broad range of effects, from relaxation and lowered inhibition to euphoria and memory impairment, and to disorientation and incapacitation. Incapacitation due to alcohol or drug use is a state beyond “mere” intoxication or even being drunk. Indicators of incapacitation may include inability to communicate, lack of control over physical movements, and/or lack of awareness of circumstances. An incapacitated person can also experience a blackout state during which they appear to give consent but does not have conscious awareness or the capacity to consent. Some medical conditions also can cause incapacitation.



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- The person is asleep or unconscious.
- The person is under the legal age of consent. In certain states, the legal age of consent is 17 but rises to 18 if the accused holds a position of trust, authority, or supervision in relation to the victim. This means that there can be no consent when one participant in the sexual activity is under the legal age of consent and any other participant is at or over the legal age of consent.

In sum, an act will be deemed non-consensual if a person engages in sexual activity with an individual who is incapacitated, and who the person knows or reasonably should know is incapacitated, or with an individual who is asleep, unconscious, or under the legal age of consent.

## Other Important Points regarding Consent

- The existence of a romantic or sexual relationship does not, in and of itself, constitute consent.
- Consent on a prior occasion does not constitute consent on a subsequent occasion.
- Consent to one sexual act does not constitute consent to another sexual act.
- Consent to sexual activity with one person does not constitute consent to engage in sexual activity with another.
- Consent cannot be inferred from a person's manner of dress or other contextual factors, such as alcohol consumption, dancing, or agreement to go to a private location like a bedroom.
- Accepting a meal, a gift, or an invitation for a date does not imply or constitute consent.
- Silence, passivity, or lack of resistance alone or in combination does not constitute consent.

Incapacitation by the person initiating sexual activity does not in any way lessen their obligation to obtain consent.

## VI. Consensual Relationships

Trust is essential to sound relationships between individuals who work in collaborative research and learning environments. The development of a sexual and/or romantic relationship may, in some cases, create legitimate questions about impartiality, professional



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judgment, conflicts of interest, coercion, harassment, and the appearance of favoritism or advantage.

This Policy therefore prohibits sexual and/or romantic relationships between (a) an academic appointee (as defined below) and an undergraduate student; (b) an academic appointee and a graduate or professional school student, postdoctoral researcher, resident/fellow, staff employee, or volunteer over whom the academic appointee exercises academic, supervisory or managerial authority; (c) a staff supervisor/manager and any person over whom they have supervisory or managerial authority; and (d) a coach (paid or volunteer) of varsity or club sports and an undergraduate student.

An “**academic appointee**” is a member of the University faculties or other academic appointee.

“**Academic authority**” includes the following activities (whether on or off campus): teaching courses as an instructor of record; grading or otherwise evaluating student work; advising on formal projects such as a dissertation or other research; serving on a dissertation committee; participating in decisions regarding student funding or other resource allocation; providing clinical supervision; supervising offsite fieldwork; and making recommendations or otherwise influencing decisions regarding admissions, employment, or the award of grants, fellowships, or other forms of recognition.

In the interests of prudence and fostering a campus environment free of sexual harassment and discrimination, this Policy imposes the following requirements:

## **Academic Appointees and others with Academic Authority**

### **Individuals with Academic Authority – Undergraduate Students**

This Policy prohibits sexual and/or romantic relationships between academic appointees and undergraduates at the University.

This Policy also prohibits any staff, postdoctoral researcher or student (whether undergraduate, graduate or professional) from having a sexual and/or romantic relationship with an undergraduate student over whom they have academic authority. For example, a graduate student serving as a lecturer may not have a sexual and/or romantic relationship with a student who is enrolled in that course during the duration of the course.





## **Individuals with Academic Authority – Graduate or Professional School Students**

This Policy prohibits sexual and/or romantic relationships between academic appointees and any graduate or professional school student over whom they exercise academic authority.

This Policy does not prohibit sexual and/or romantic relationships between academic appointees and graduate or professional students over whom they do not have academic authority. If the academic appointee later seeks or is asked to take on a role or responsibility that would include academic authority over the student, the relationship must be disclosed and managed to prevent the creation of that academic authority, as described below in the section on reporting.

This Policy also prohibits any graduate or professional student, postdoctoral researcher, or staff employee with an academic teaching or academic supervisory role from having a sexual and/or romantic relationship with a graduate student whom they teach or supervise during the duration of the teaching or supervisory relationship (e.g., a graduate student serving as a lecturer may not have a sexual and/or romantic relationship with a student who is enrolled in that course during the duration of the course).

## **Academic Appointee – Postdoctoral Researchers**

This Policy prohibits sexual and/or romantic relationships between academic appointees and any postdoctoral researcher over whom they exercise authority, academic or otherwise.

## **Academic Appointee – Staff Employees/Volunteers**

This Policy prohibits sexual and/or romantic relationships between academic appointees and any staff employee or volunteer over whom they have supervisory or managerial authority.

## **Academic Appointee/Attending Physician – Resident Physician/Fellow**

This Policy prohibits sexual or romantic relationships between academic appointees who are attending physicians and residents/fellows over whom they exercise academic, supervisory or managerial authority, or otherwise oversee the resident/fellow's work.



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## **Staff Supervisors/Managers – Subordinate Employees/Volunteers**

This Policy prohibits staff employees in supervisory and management roles from having sexual and/or romantic relationships with persons over whom they have supervisory or managerial authority.

## **Coaches – Undergraduates**

This Policy prohibits coaches (paid and volunteer) of varsity teams and sport clubs from having sexual and/or romantic relationships with undergraduate students.

## **Disclosure, Reporting and Non-Retaliation**

For the purposes of this Policy, a “disclosure” means written notification to, and meeting with, the Title IX coordinator.

There can be sexual and/or romantic relationships between individuals in positions of unequal authority that are not prohibited by this Policy. These types of relationships include but are not limited to: academic appointee and graduate or professional student over whom the academic appointee does not currently exercise academic authority (as discussed above); senior faculty member-junior faculty member; faculty member-other academic appointee; and attending physician-resident/fellow over whom they do not currently exercise academic, supervisory or managerial authority, or otherwise oversee the resident/fellow’s work.

In all instances, as soon as the person in a position of greater overall institutional authority learns that they will be taking on a role that will include academic authority over the other individual, they must promptly disclose the existence of the relationship to the Title IX coordinator. The Title IX coordinator for the University will then notify and confer with the relevant department chair, dean and/or supervisor, only if necessary and as appropriate, to develop a management plan.

A management plan is a written document that sets forth expectations and establishes rules that separate the professional relationship from the intimate relationship. Management plans are inherently flexible and can be modified at any time to account for and mitigate any changes in the professional relationship. For example, if a faculty member assumes a new



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administrative responsibility that would include a new type of authority over the other individual, the management plan should be reviewed and updated as needed.

Further, it can be the case that third-party witnesses to a prohibited relationship or suspected prohibited relationship want the relevant department chair, dean and/or supervisor to address the matter but remain silent out of fear of reprisal. Such individuals are encouraged to come forward to the Title IX coordinator for the University. All complaints and concerns will be treated as confidentially as is feasible and will be addressed by the Title IX coordinator for the University in partnership, as appropriate, with the chair, dean and/or supervisor. Retaliation against anybody who makes a complaint or raises a concern about a possible policy violation is prohibited.

## Violations

Violations of this Policy may result in discipline, which can include, but is not limited to, written warnings, loss of privileges, mandatory training or counseling, probation, suspension, demotion, expulsion, and termination of employment (including revocation of tenure). Disciplinary actions will be enforced at the appropriate administrative level.

## Privacy and Confidentiality

Information reported to the Title IX coordinator will be treated as private and confidential. The Title IX coordinator will only share information with those individuals at the University who have a need to know (as described above, i.e.-Deans, Department Chairs).

## VII. Reporting Options

### Individuals with Reporting Responsibilities

As noted above, some University employees (referred to as “Individuals with Reporting Responsibilities”) must promptly notify the Title IX coordinator for the University all known details related to a possible incident of sexual misconduct (including sexual harassment), dating violence, domestic violence, and stalking that is reported to them directly, indirectly, or through a third party, or that they may have observed. Individuals with Reporting Responsibilities must report such information regardless of where the incident occurred. Individuals with Reporting Responsibilities include (among others) faculty and instructors, RAs, resident heads, resident deans, TAs, preceptors, and other university employees.



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Please note that reporting an incident to the Title IX coordinator for the University (or their designees) is private, and it does not mean the person who experienced sexual misconduct, dating violence, domestic violence, or stalking somehow loses control of the process. To the contrary, the Title IX coordinators are here to advise members of our community on their options regarding remaining anonymous, confidentiality, the University's process for investigating complaints of sexual misconduct, dating violence, domestic violence, and stalking, and the University's disciplinary process. Indeed, in some cases, individuals choose not to move forward with the investigation process, but still request support services. When the University receives a report that someone in our community experienced sexual misconduct, dating violence, domestic violence, or stalking, the University will provide that person with a written summary of their rights and options, including information on contacting local law enforcement and community-based resources.

While only Individuals with Reporting Responsibilities are required to report all incidents of sexual misconduct (including sexual harassment), dating violence, domestic violence, and stalking to the Title IX coordinator for the University, all other members of our community (including students) are encouraged to report such incidents to the Title IX coordinator or their designees.

## **Associate Provost for Fair Opportunities and Title IX Coordinator for the University**

You may contact the Associate Provost for Fair Opportunities or her designee to report any complaints of discrimination, unlawful harassment, and sexual misconduct. The Associate Provost for Fair Opportunities or her designee can also assist you in the following ways:

- If you are unsure of where to turn for help.
- If you have questions regarding this Policy or the University's Policy on Title IX Sexual Harassment.
- If you have questions regarding Title IX of the Education Amendments of 1972 or the Department of Education's regulations implementing Title IX.
- If you are seeking information regarding or the implementation of Supportive Measures and accommodations related to a sexual misconduct matter.
- If you have a complaint or question regarding postdoctoral researchers, staff, faculty members, or other academic appointees engaging in harassment, discrimination, sexual misconduct, dating violence, domestic violence, stalking, or retaliation.





- If you need information regarding campus accessibility and accommodations for individuals with disabilities.

Counseling services are provided to staff, faculty, other academic appointees, and postdoctoral researchers affected directly and indirectly by sexual misconduct, domestic violence, dating violence, and stalking.

Confidential resources such as the sexual assault dean-on-call, confidential advisor, student wellness, ordained religious advisors, and Employee Assistant Program counselors, do not have an obligation to report sexual misconduct, dating violence, domestic violence, and stalking to the Title IX coordinator and will not do so without the explicit consent of the complaining party. For more information about and a complete list of Confidential Resources, see Appendix I (Support Services and Resources for Those Who Have Experienced Sexual Assault).

## VIII. Institutional Obligation to Respond

If a known complainant discloses an incident or incidents of sexual misconduct to the University but asks to remain anonymous during the investigation and/or asks that the University refrain from investigating, the Title IX coordinator for the University will consider how to proceed. The Title IX coordinator will take into account the complainant's wishes, and factors including, but not limited, to the following: (a) was a weapon involved in the incident, (b) were multiple assailants involved in the incident, (c) is the accused a repeat offender, (d) does the incident create a risk of occurring again, (e) the results of the individualized safety and risk analysis, (f) the University's obligation to provide a safe and non-discriminatory environment, and (g) the respondent's right to have specific notice of the allegations and an opportunity to be heard if the University were to take action that affects them. In such circumstances, the Title IX coordinator may arrange for limited fact-finding to better understand the context of the complaint and explore viable options for addressing safety concerns, and any options for investigation, adjudication, and remediation.

Because sexual misconduct may constitute a serious crime that threatens the community as a whole, in some instances the University may be obliged to address allegations through internal resolution procedures without the cooperation of the individual making the allegation. In such instances, the Title IX coordinator may file a complaint and initiate investigation and resolution procedures. In such instances, the University will respect the parties' privacy to the extent possible consistent with its legal obligations and will inform the



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victim of its obligation to address a community safety issue. All publicly available recordkeeping, including Clery Act reporting and public disclosures, will not contain personally identifying information about the victim.

## **IX. Conflicts of Interest**

All Policy Personnel who have responsibilities under this Policy must be free of any conflict of interest or bias for or against the complainant or respondent, or for complainants or respondents generally.

The complainant and respondent will be notified of the identities of those involved in the investigation and resolution procedures, before those individuals initiate contact with either party, and may report a potential conflict of interest or bias relating to any Policy Personnel to the Title IX coordinator, along with a written statement detailing the nature of the conflict or bias.

The Title IX coordinator will review the particular facts of the situation and use an objective, common sense approach to evaluate whether a particular person serving in a role under this Policy is conflicted or biased (*i.e.*, whether a reasonable person would believe a material conflict or bias exists). An example of a conflict of interest could be the identification of a personal or social relationship between a person serving in a role under this Policy and one of the parties, which may have a real or perceived effect on the judgement of the Policy Personnel.

The Title IX coordinator will exercise caution not to apply generalizations that might unreasonably conclude that bias exists, for example, assuming that all self-professed feminists or self-described survivors are biased against men, or that a man is incapable of being sensitive to women. Past experience, including prior work as a victim advocate or as a defense attorney, does not in and of itself constitute a conflict of interest. The training required under this Policy is intended to provide personnel with the tools needed to serve impartially and without bias.

Based on the review described above, the Title IX coordinator may remove Policy Personnel from their roles, and another trained University official or external subject matter expert will be assigned to investigate and/or resolve the case. Both parties will be notified in writing in the event of a removal or change in Personnel.



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## X. Emergency Removals or Leaves of Absence

The University may remove a respondent from an education program or activity on an emergency basis while an investigation is pending. The University will only remove a respondent on an emergency basis if, after making an individualized safety and risk analysis, it determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations justifies removal. The University also may place a non-student employee that is a respondent on paid administrative leave during the pendency of a resolution process. The University will provide the respondent with notice and an opportunity to request a review of the decision immediately following the removal. Requests for review may be submitted in writing

Such emergency removals/leaves of absence must comply with any other relevant laws, policies, administrative procedures, and agreements governing removals of students and/or employees from the University's education program or activity.

## XI. Confidentiality

The University must protect privacy and confidentiality to fulfill its commitment to address complaints of harassment, discrimination, and sexual misconduct fairly and expeditiously. The University will keep confidential, from persons outside of the investigation process, the identity of any individual who has made a report or complaint under this Policy, including any person who has filed a complaint; any respondent(s) involved in a complaint; and any witnesses.

While the University will keep matters confidential to the extent possible, the University may have to disclose information related to the matter, such as in the following situations:

- (1) to those to whom it is necessary to give fair notice of the allegations and to conduct the investigation;
- (2) to law enforcement consistent with state and federal law;
- (3) to other University officials as necessary for coordinating Supportive Measures or for health, welfare, and safety reasons;
- (4) to government agencies that review the University's compliance with federal law; and



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(5) to third parties as permitted or compelled by law (e.g., in response to a lawful subpoena or in compliance with federal privacy law).

The University will not restrict the ability of either party to discuss the allegations under investigation. A party may discuss the allegations under investigation and/or gather and present evidence. Retaliation of any kind, however, is prohibited under the Policy.

## **XII. Leniency for Other Policy Violations**

To encourage reports of sexual misconduct, the University normally will offer leniency to a student who reports an alleged violation of this Policy in good faith with respect to other student conduct violations that come to light as a result of such reports. For example, the University ordinarily will not pursue disciplinary charges related to underage drinking by the reporting person if that policy violation comes to light as the result of a sexual assault complaint. The University will not discipline a reporting student for such conduct violations unless the University determines that the violation was egregious, including without limitation an action that places the health or safety of any other person at risk.

## **XIII. Non-Retaliation**

The University prohibits retaliation against any person who exercises any rights or responsibilities under this policy. Any act of retaliation may be a separate violation of this Policy.

## **XIV. Response to a Report or Complaint**

The University's procedures for responding to incidents depends on the nature of the incident, the relationship of the respondent to the *institution*, and, to the extent possible, the wishes of the person bringing forward the complaint. If the Title IX coordinator receives a report or complaint and, following a preliminary assessment of the initial report or complaint, determines the conduct reported could fall within the scope of this Policy, the Title IX coordinator or their designee will promptly contact the complainant to discuss the availability of Supportive Measures and to explain to the complainant the process for filing a complaint. If applicable, the Title IX coordinator or their designee will provide information regarding the importance of preserving physical evidence and the availability of a medical forensic examination at no charge to the victim.





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The Title IX coordinator or their designee will explain that a report may be resolved by: 1) the imposition of Supportive Measures only; 2) the filing of a complaint using Administrative Resolution or Resolution by a Hearing Body; 3) the filing of a complaint by the Title IX coordinator (as discussed under the Institutional Obligation to Respond section below); or, 4) Informal Resolution that involves voluntary participation and agreement by both parties. In all cases, the University is committed to providing a prompt, fair, impartial, and thorough investigation and resolution that is consistent with the University's policies and is transparent to the complainant and the respondent. Such an investigation may occur alongside an independent law enforcement investigation. Third parties found to have violated the Policy may be banned from campus and/or otherwise restricted from attending or participating in the University activities and programs.

Upon receipt of a report or complaint of sexual misconduct where there is a known respondent, the Title IX coordinator or their designee will conduct an individualized safety and risk analysis and determine if there is an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual misconduct.

The Title IX coordinator or their designee will provide the complainant and respondent with a written document (separate from this Policy) listing the available rights, options, and resources under this Policy, in plain, concise language.

As explained above, although the procedures for investigating an alleged violation of this policy depend upon the status of the accused individual, such investigations will generally include: (1) assisting and interviewing the complainant (and the alleged victim, if that person is not the complainant); (2) identifying and locating witnesses; (3) contacting and interviewing the respondent; (4) if applicable, contacting and cooperating with law enforcement; and (5) providing information, including information regarding the importance of preserving physical evidence of the alleged sexual violence and the availability of a medical forensic examination at no charge to the victim.

### *Investigation Timeframe*

In most cases, the University's investigation and resolution process will be complete within 60-90 days of receiving a complaint. The University, in its discretion, may extend its investigation for good cause. If the timeframe for the investigation is extended, the University will provide written notice to the complainant and the respondent of the extension and the reason for the extension.



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## *Resolution of Complaints of Sexual Assault, Dating Violence, Domestic Violence, or Stalking*

Anyone may choose to bring forward a complaint within the University instead of, or in addition to, seeking redress outside the *institution* in the legal system. Someone with a complaint of sexual assault, domestic violence, dating violence or stalking may also opt to pursue their complaint via the legal system without engaging the University's disciplinary process, although, in the interest of community safety, the University may be obliged to address an alleged sexual assault through internal disciplinary procedures as discussed in Section VII.

### *Sexual History and Privileged Information*

The complainant's and/or respondent's sexual history with others will generally not be sought or used in determining whether sexual assault has occurred. However, in certain circumstances the sexual history between the parties may have limited relevance to explain context. Specifically, questions and evidence about the complainant's sexual predisposition or prior sexual behavior may be relevant if the evidence is offered to prove that someone other than the respondent committed the reported conduct, or it addresses the complainant's prior sexual behavior with respect to the respondent and is offered to prove Consent. Additionally, under limited circumstances necessary to understand the context, sexual history between the parties may be relevant to explain an injury, to provide proof of a pattern, or to address an allegation within a resolution process.

The complainant's and/or respondent's medical and counseling records, such as by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or information protected under a legally recognized privilege, will generally not be sought or used unless the Investigator obtains that party's voluntary, written consent that the privilege has been waived.

### *Advisor of Choice in matters involving Sexual Misconduct*

In matters involving allegations of sexual misconduct, the complainant and the respondent have the opportunity to have others present during any resolution proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney. The University will not limit the choice or presence of an advisor in any meeting or resolution proceeding; however the



University may establish expectations of advisors related to their participation in proceedings, which will apply *equally to both parties*.

The advisor does not function as an advocate or participate directly in any way during the proceeding. If the support person is a lawyer, a representative of the University's Legal Counsel office also will attend the hearing. Regardless of whether a complainant, respondent or witness is represented by counsel, at all times they are expected to speak for themselves, directly communicate with the University personnel involved in the investigatory and resolution processes, and submit their own written statements

## **XV. Administrative Resolution of Complaints**

### *Administrative Resolution of Complaints Where a Student is the Respondent*

If the person accused of a violation of this Policy is a student, an administrative complaint shall be made using the administrative resolution procedures for student discipline described in the Student Manual. The complaint should be addressed to the Associate Dean of Students.

### *Administrative Resolution of Complaints Where an Academic Appointee or Postdoctoral Researcher is the Respondent*

If the person accused of a violation of this Policy is an academic appointee or postdoctoral researcher, an administrative complaint shall be made using the administrative procedures described in the Faculty Handbook or Postdoctoral Researcher Policy Manual.

### *Resolution of Complaints Where a Staff Member is the Respondent*

If the person accused of a violation of this Policy is a staff employee, Human Resources or their designee will normally conduct the investigation in partnership with the Associate Provost for Fair Opportunities or their designee. Both parties will be simultaneously informed of the outcome of the investigation. When a policy violation is found, a report of the complaint, including any disciplinary action, is placed in the respondent's official file.



## **XVI. Resolution of Complaints by the Hearing Bodies**

### *Resolution of Complaints Through the University-Wide Disciplinary Process Where a Student is the Respondent*

If the person accused of a violation of this Policy is a student, a complaint resolved through the University-Wide Disciplinary Process shall be made using the procedures for student discipline described in the Student Manual. The Student Manual describes sanctions that may be imposed upon a student found responsible for a violation of this Policy.

### *Resolution of Complaints Through the Faculty Panel on Unlawful Harassment Where an Academic Appointee or Postdoctoral Researcher is the Respondent*

If the person accused of a violation of this Policy is an academic appointee or postdoctoral researcher, a complaint resolved by the Faculty Panel on Unlawful Harassment shall be made using the hearing procedures

### *Access to Information*

The complainant, the respondent, and appropriate university officials will receive timely and equal access to information that will be used during a Resolution by a Hearing Body. As described in the procedures, the complainant and respondent are simultaneously informed, in writing, of the result of a hearing, and the procedures for seeking review of the result and when the result becomes final. This notification will include the determination of whether a violation occurred, any sanction, and the rationale for the result and sanction. If the complainant or respondent seeks review of the result, both will be simultaneously informed in writing of any change to the outcome.

## **XVII. Informal Resolution**

The Informal Resolution process is a voluntary process that is separate and distinct from the University's formal investigation and resolution processes under this Policy.

*Informal Resolution of Complaints under the Policy on Title IX Sexual Harassment or complaints under this Policy of sexual assault, sexual abuse, dating violence, domestic violence, or stalking.*





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Informal Resolution of complaints alleging sexual assault, sexual abuse, dating violence, domestic violence or stalking will be made using the procedures described in the Student Manual. Informal Resolution of these complains are limited to matters involving students and will not be permitted if the respondent is a non-student employee.

*Informal Resolution of complaints of discrimination or harassment under this Policy.*

Informal Resolution of complaints of discrimination or harassment under this Policy may also be available if the Associate Provost for Fair Opportunities determines that informal resolution is appropriate.

## **XVIII. Required Training for Policy Personnel**

All Policy Personnel will participate in 8 hours of training annually training on issues related to this Policy, including sexual violence, domestic violence, dating violence, and stalking, in addition to annual survivor-centered and trauma-informed response training. Depending on the individual's role, the training may include some or all of the following subject matters: the definition of harassment, discrimination, and sexual misconduct, how to conduct a complaint resolution process, how to conduct a request for review, how to facilitate an Informal Resolution process, and as applicable, how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias.

Any person serving as an investigator or on a hearing body will receive training on the issues of relevance of questions and evidence, including about when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant.

Any person serving as an Investigator will receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.

Any materials used to train Policy Personnel must not rely on stereotypes and must promote impartial investigations and adjudications of complaints.

## **XIX. Time Limits**

There is no time limit for filing a complaint of sexual misconduct, dating violence, domestic violence, or stalking. However, complainants should report as soon as possible to maximize the University's ability to respond promptly and effectively. Delayed reporting often results in



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the loss of relevant evidence, and/or in faded and unreliable memories; it also impairs the University's ability to summon witnesses, assess evidence, and, if appropriate, adjudicate claims and impose sanctions and other remedies. Furthermore, if the respondent is no longer affiliated with the University at the time of the complaint, it is likely that the University will be unable to summon the respondent or take disciplinary action against him or her, although the University will take reasonable steps to understand the facts, assess whether the respondent poses a present or ongoing risk of safety to the University community, and take any measures necessary to mitigate safety risk.

## **XX. Bad Faith Complaints and False Information**

It is a violation of this Policy for any person to submit a report or complaint that the person knows, at the time the report or complaint is submitted, to be false or frivolous. It is also a violation of this Policy for any person to knowingly make a materially false statement during the course of an investigation, hearing, or request for review under this Policy. Violations of this Section are not subject to the investigation and hearing processes under this Policy; instead, they will be addressed under the Student Manual in the case of students and other University policies and standards, as applicable, for faculty, other academic appointees, postdoctoral researchers, or staff, or other participants in university education programs and activities.

## **XXI. Prevention and Education Programs**

The University provides numerous education programs and awareness campaigns to prevent and promote awareness of sexual harassment, sexual assault, sexual abuse, domestic violence, dating violence, and stalking. In addition to covering the information addressed in this Policy, these programs will, among other things, provide information regarding options for bystander intervention and information on risk reduction strategies. Descriptions of these prevention and education programs can be found in the University's annual security and fire safety report.

## **Appendix**

### **I. Support Services and Resources**

The needs of someone who has experienced sexual assault, sexual abuse, domestic violence, dating violence, or stalking, vary from person to person and may vary over time.



The University offers a diverse array of services and external resources, many of which may be accessed 24 hours a day, so that a person may choose whatever would be most helpful and healing. Written information regarding these services and resources will be provided to individuals who report being victims of sexual assault, sexual abuse, domestic violence, dating violence, or stalking. Exercising reasoned discretion, the University will provide Supportive Measures and accommodations. Any Supportive Measures or accommodations will be confidential so long as confidentiality will not impair the University's ability to provide the Supportive Measures or accommodations.

The University urges anyone who has experienced sexual assault, domestic violence, dating violence, or stalking to seek support as soon as possible to minimize and treat physical harm, assist with processing the unique and complex emotional aftermath, and help preserve and understand options for pressing charges. Individuals have many options with regard to reporting sexual assault, domestic violence, dating violence, and stalking, including reporting to the institution Police Department, the local Police Department, and to various campus authorities. Additionally, victims have recourse through the civil and criminal court systems, by being able to seek orders of protection, no-contact orders, and other similar court orders. As feasible, the University will honor an order of protection or no-contact order entered by a State civil or criminal court so long as it has been notified of the order and its terms. Victims also have the option to decline to notify such authorities.

Even for someone who does not wish to report the event to the police or pursue disciplinary action, seeking medical attention as soon as possible is important. This may assist with preserving evidence, which may be necessary to the proof of criminal sexual assault, domestic violence, dating violence, or stalking, or to obtain an order of protection.

## Medical Facilities

The institution **Emergency Room** is the nearest medical facility to the campus and follows specific policies and procedures, approved by the State, in treating an individual who has been sexually assaulted. The State will pay for emergency room care for victims who have been sexually assaulted and do not have health insurance; if a victim provides health insurance information to the emergency room, the emergency room will bill the insurance company and the policy holder will be notified as usual.

- The victim is placed in a private room.
- Medical care is given as soon as possible.



- A sexual assault advocate or a sexual assault dean-on-call (for a student) may be called based on a victim's preferences.
- By law, city police are notified, and the victim may choose to file a report.
- The victim may have a medical forensic examination completed at no cost.

## **Resources Especially for Faculty, Other Academic Appointees, Postdoctoral Researchers, and Staff**

### **Equal Opportunity Programs**

The Office of the Provost's Fair Opportunities leads and coordinates University efforts to address reports of discrimination, unlawful harassment, and sexual misconduct; to ensure accessibility; and to provide equal employment opportunities.

## **II. Yearly Report on Harassment and Sexual Misconduct to the Council of the University Senate**

A yearly report will be made to the Council of the University Senate: (1) detailing the number of different types of incidents of harassment and sexual misconduct brought to the attention of the University-wide student discipline panel, Title IX coordinators, and Human Resources; and (2) describing the goals of the University-wide program to prevent harassment and sexual misconduct and the ways in which those goals were implemented during the year.





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Policies on

## Learner/Student Issues (Title IX)



## 19. Student Mistreatment Policy (includes Bullying)

### Scope

Applies to all medical students, visiting medical students (VMS) , and faculty, residents, fellows, and allied health employees when interacting with students.

### Purpose

To inform all educators and students of the expected standards of behavior toward medical students.

### Policy

- The *institution* expects all persons who interact with students in any learning environments to treat them with mutual respect; without regard to race, sex, age, religion, national origin, marital status, color, creed, sexual orientation, gender identity or expression, disability (physical or mental), genetic information, veteran status, familial status, and status with regard to public assistance or other protected categories.
- The *institution* works to provide a learning environment free of student mistreatment, including belittlement, humiliation, hostility, and abuse.
- All *institution* students, faculty, residents, fellows and allied health employees should report student mistreatment that they observe or have reason to suspect.
- Reports of student mistreatment can be made to the Student Services office, school administrators, the school ombudsperson, faculty, advisors, and mentors or anonymously through the *institution* Compliance Program hotline/portal.
  - The thoroughness of an investigation may be impacted when anonymous reports are made.
  - Any individual who receives a report of mistreatment should report the incident directly to the Dean of Student Services.
- The Student Services office, medical school, and College of Medicine representatives assigned to address alleged charges of student mistreatment will do so in a fair, objective, and confidential manner, taking care to respect the rights (and anonymity, as applicable) of all involved parties.
- The *institution* will not allow retaliation against or intimidation of a complainant.
- The Student Services office is responsible for oversight and trend analysis of the incidence and character of student mistreatment.



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- This information will be reported on a periodic basis to the *institution* Executive Committee and *institution* Education Committee and to outside regulatory bodies as required by regulation or law.





## 20. Title IX Sexual Harassment Policy

### Scope

Applies to the following persons when Sexual Harassment or allegations of Sexual Harassment occur among those participating in institution Education Programs and/or Activities:

- All institution employees, including Consulting Staff, Administrative Voting Staff, Allied Health employees, employed Research Temporary Professionals, faculty members, and other employees;
- Applicants for employment or admission to educational programs;
- All learners and students, including recognized learner or student organizations;
- Third parties (such as non-employee physician/scientists, patients, alumni, contractors, vendors, and visitors);
- Any other member of institution's community.

This policy does not apply to Sexual Harassment that occurs off-campus, in a private setting, and outside the scope of institution's Education Programs and Activities.; Such Sexual Harassment may be prohibited by the Learner Professional Conduct Policy if committed by a learner/student, the Unacceptable Conduct Policy if committed by a member of the Consulting/Voting Staff, or the institution policies and standards if committed by any employee.

Consistent with the U.S. Department of Education's implementing regulations for Title IX, this policy does not apply to Sexual Harassment that occurs outside the geographic boundaries of the United States, even if the Sexual Harassment occurs in the institution's Education Programs and Activities, such as an international learning experience. Sexual Harassment that occurs outside the geographic boundaries of the United States is governed by the Learner Professional Conduct Policy if committed by a learner/student, the Unacceptable Conduct Policy if committed by a member of the Consulting/Voting Staff, or the institution Code of Conduct and other institution policies and standards if committed by an employee, including but not limited to the Faculty Misconduct Policy.



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This policy applies only to Sexual Harassment. Complaints of other forms of sex discrimination are governed by the institution's Non-Discrimination Policy.

## Purpose

To reinforce that respect, including consideration and courtesy, is an institution Value and expected of everyone. THE INSTITUTION is committed to providing a learning and working environment that promotes mutual respect, including one free from harassment and violence. This policy is intended to foster all of the institution's Values, including personal responsibility, individual accountability and civility toward others.

To communicate institution's position on Sexual Harassment and expectations for appropriate behavior in Educational Programs and/or Activities; and to provide all members of the institution community with a framework for addressing, resolving, and remediating Sexual Harassment that may arise in those contexts.

To comply with federal, state, and local laws related to Sexual Harassment in educational programs and activities, including:

- Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681;
- The Violence Against Women Act of 2013 (VAWA); and
- State and local laws concerning Sexual Harassment in educational settings.

## Policy

THE INSTITUTION prohibits Sexual Harassment in its Educational Programs and Activities. For purposes of this policy, Sexual Harassment is defined to include:

- Quid Pro Quo Sexual Harassment;
- Hostile Environment Sexual Harassment;
- Sexual Assault;
- Domestic Violence;
- Dating Violence; and
- Stalking.



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The institution prohibits such Sexual Harassment:

- Regardless of whether the Complainant and Respondent are members of the same or opposite sex.
- Regardless of national origin, immigration status, citizenship, or other similarly protected status.

The institution's prohibition on such Sexual Harassment includes a prohibition on retaliation for asserting claims of Sexual Harassment, or for conducting or participating in, or refusing to participate in, an investigation or resolution of Sexual Harassment.

- Any report or Formal Complaint of Retaliation will be processed under this policy in the same manner as a report or Formal Complaint of Sexual Harassment.
- The institution retains discretion to consolidate a Formal Complaint of Retaliation with a Formal Complaint of Sexual Harassment for investigation and/or adjudication purposes if the two Formal Complaints share a common incident.

The institution Response to Reports of Sexual Harassment

The institution is committed to the prompt, full, and fair resolution of Sexual Harassment complaints and has established the Title IX Sexual Harassment Complaint Resolution Procedure (Procedure) to address complaints.

- The Procedure is intended to be flexible so as to allow the institution to fulfill its mission and maintain a safe, non-discriminatory learning and working environment. The Title IX Coordinator or a designee has discretion to deviate from the Procedure when deemed appropriate under the circumstances.

The institution will take prompt action after receiving a report of Sexual Harassment, including a review of the matter and, if necessary, investigating and taking appropriate steps to stop, remedy, and prevent the recurrence of the Sexual Harassment.

The institution will act in accordance with the Procedure and may investigate alleged Sexual Harassment within the Scope of this policy that occurred:

- On institution property or in institution facilities,



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- During or at an official institution Educational Program and/or Activity within the United States.

The institution has designated the following person to coordinate its compliance with laws regarding Sexual Harassment, including Title IX/VAWA, and to receive inquiries regarding Sexual Harassment: Title IX Coordinator

The Title IX Coordinator is responsible for:

- Ensuring institution compliance with Title IX;
- Identifying and addressing any patterns or systemic problems of Sexual Harassment;
- Coordinating the dissemination of information and education and training programs;
- Receiving complaints under this policy and related procedures;
- Assisting members of the institution community in understanding that Sexual Harassment is prohibited by this policy;
- Answering questions about this policy;
- Ensuring that relevant employees and learners are aware of the procedures for reporting and addressing complaints of Sexual Harassment; and
- Implementing the complaint resolution procedure or to designate appropriate persons for implementing the complaint resolution procedure.

Promptness, Fairness, and Impartiality (Conflicts of Interest)

The institution will provide prompt, fair, and impartial investigations and resolutions.

All institution officials involved in a case, including but not limited to the Title IX Coordinator, Investigator, Hearing Officer, Administrative Officer, Sanctioning Official, Appeal Officer, Informal Resolution Facilitator, or any such official's designee (for purposes of this section "institution Officials"), will discharge their obligations under the Policy and Procedure fairly and impartially.





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If either party believes that any institution Official involved in a case has a conflict of interest, the party should promptly inform the Title IX Coordinator or the institution Legal Department.

All institution employees and institution Officials involved in a case have a duty to consult with the Title IX Coordinator or institution Legal Department if they have reason to believe that they or another institution Official involved in the case has a conflict of interest.

If it is determined by the Title IX Coordinator or the institution Legal Department that an involved institution Official cannot apply the Title IX Sexual Harassment Policy and Procedure fairly and impartially due to any actual or perceived conflict of interest, another appropriate individual will be designated to administer the Policy and Procedure.

The failure of a party to timely raise a concern of a conflict of interest or bias may result in a waiver of the issue for purposes of any Appeal or otherwise.

## Required Training

The institution Officials, as defined under Promptness, Fairness, and Impartiality (Conflicts of Interest), will be trained in compliance with 34 C.F.R. § 106.45(b)(1)(iii) and any other applicable federal or state law.

## Reporting

### When to Report

The institution encourages individuals to report Sexual Harassment as soon as possible to location officials and/or law enforcement, where appropriate.

- Promptly notifying the Title IX Coordinator, a Confidential Care and Support Resource, or law enforcement helps ensure that a Complainant receives support, helps with the preservation of evidence, and facilitates an appropriate investigative or other response.

Reports may be made at any time, but delayed reports may limit the availability of evidence and witnesses, and make it difficult for the institution to respond in an effective and fair matter.

Support resources will be offered to the Complainant regardless of when a report is made.



An individual may file a report regardless of whether they have complete information about an incident, including when they do not know the identity of the Respondent.

## Where to Report

- Emergency Reports
  - An individual should dial 911 to be connected with emergency responders.
    - A report of Sexual Harassment received through this system will be sent directly to the Title IX Coordinator or their designee, and the reports or information contained in them will not be disseminated except as necessary to conduct a full and fair investigation.
    - Individuals may report Sexual Harassment anonymously through the Compliance Hotline.
    - Anonymous reporting does not fulfill the reporting obligations of institution Reporting Officials.
    - In cases of anonymous reports, institution may be limited in its ability to investigate, and reporters should be aware that institution may not be obligated to investigate anonymous reports.
    - The institution strongly encourages that reports identify the individual filing the report, the Complainant, the Respondent, and related detail to the extent possible.
- Reporting to Law Enforcement – the institution strongly encourages Complainants of Sexual Assault, Dating Violence, Domestic Violence and Stalking to report to law enforcement.
  - Whether to notify law enforcement of Sexual Harassment is a decision that will be left to the Complainant in most cases, and the institution recognizes a Complainant’s right to decline to report to law enforcement.
    - In rare cases where there is an ongoing threat to the the institution community, the institution may notify law enforcement of an incident of Sexual Harassment, limiting personally identifiable information disclosed to the extent possible under the circumstances.



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- If a Complainant elects to report an incident to law enforcement, at the request of the Complainant, institution personnel, as designated by the Title IX Coordinator, will provide prompt assistance in notifying the appropriate law enforcement officials.
- Complainants wishing to report Sexual Harassment to local law enforcement may contact the officials listed in Policy Notes.
- The Title IX Sexual Harassment Policy and Procedure are administrative, applied by the institution, and separate and distinct from civil and criminal legal systems.
- In general, reports of Sexual Harassment made to the institution will proceed under the Title IX Sexual Harassment Policy and Procedure regardless of any parallel investigation by law enforcement.
  - In some circumstances and where requested by the Complainant and/or law enforcement the institution may place a hold on its Procedure to facilitate the law enforcement process.
  - Decisions made or sanctions imposed through these or other institution policies and procedures are not subject to change simply because criminal or civil legal proceedings against a Respondent for the same conduct are dismissed, reduced, or rejected in favor of the Respondent.

## **Duty to Report - The institution Employees**

- The institution Reporting Officials have a duty to promptly contact the Title IX Coordinator after becoming aware of an incident or allegation of Sexual Harassment and/or provide information giving them reason to believe that Sexual Harassment may have occurred, even if a Complainant requests confidentiality.
- A Reporting Official's report cannot be anonymous, though it may be made via the Compliance Hotline or by emailing the Compliance Hotline.
- Other institution employees are strongly encouraged to report information of any incident of Sexual Harassment.
- The institution employees who learn of Sexual Harassment when acting in a



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professional role as a Confidential Care and Support Resource are not required to notify the Title IX Coordinator about information that their professional license requires them to keep confidential.

## Reporting by Others

- The institution strongly encourages all members of the institution to report any incident of Sexual Harassment.

### Presumption of Non-Responsibility

- From the time a report or Formal Complaint is made, a Respondent is presumed not responsible for the alleged harassment until a determination regarding responsibility is made final.

### Confidentiality and Its Limits

- The institution will maintain confidentiality with regard to Title IX reports or Formal Complaints of Sexual Harassment or Retaliation, including the Complainant, the identity of any individual who has been reported to be a perpetrator of Sexual Harassment or Retaliation including any Respondent, and the identity of any witness as well as records generated in response, to the extent reasonably possible consistent with a prompt, equitable, and fair response, investigation, and resolution, and consistent with applicable laws and institution policies.
  - The institution considers complaints and investigations conducted under this policy to be private matters for the parties involved and will make reasonable and appropriate efforts to preserve all parties' privacy and personally identifiable information when investigating and resolving a complaint.
  - The institution may reveal the identity of any person or the contents of any record as permitted by FERPA, if necessary to carry out the institution's obligations under Title IX including the conduct of any investigation, adjudication, or appeal under this policy or any subsequent judicial proceeding, or as otherwise required by law.
  - Despite the institution's general obligation to maintain confidentiality as specified in this policy, the parties to a report or Formal Complaint will be given access to investigation and adjudication materials as provided in this





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policy and procedure.

- Complainants and others may discuss incidents of Sexual Harassment in confidence with Confidential Care and Support Resources (See definition for rare exception to ability to provide confidentiality).
- The institution cannot guarantee absolute confidentiality to those who make complaints. Complainants who are not sure they wish to report Sexual Harassment should contact a Confidential Care and Support Resource before sharing information with an institution Reporting Official.

## Requests for Confidentiality

- The institution's ability to respond to a report may be limited if a Complainant insists that his or her name not be disclosed to the alleged perpetrator.
- The institution reserves the right to initiate an investigation despite a Complainant's request for confidentiality in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the institution.

## Privacy and Those Participating in Investigations

- The institution will advise the parties, advisors, support people/advisors, witnesses, and employees involved in investigations and complaint resolution of the need to protect privacy and the need to exercise ethical behavior in discussing incidents of Sexual Harassment.
- While the institution will maintain confidentiality as provided in this section, the institution will not limit the ability of the parties to discuss the allegations at issue in a particular case.
- Parties must ensure that their communications are consistent with the institution Anti-Retaliation Policy. Further, the manner in which parties communicate about, or discuss a particular case, may constitute Sexual Harassment or Retaliation in certain circumstances and be subject to discipline pursuant to the processes specified in this policy.



## Clery Act, State Law, and Timely Warning Reporting

- As required by state and federal law, the institution lists statistics about certain offenses, which do not include personally identifiable information, in its annual security reports and provides those statistics to the United States Department of Education and the Office of Higher Education.
- The Clery Act requires the institution to issue a crime alert in limited circumstances (a.k.a. an “emergency notification” or “timely warning”) to the campus community about certain reported offenses which may represent a continuing threat to the institution community.
  - These notices may include that an incident has been reported, general information surrounding the incident, and how incidents of a similar nature might be prevented in the future.
  - The notices will not include any personally identifiable information about the individual who has alleged the Sexual Harassment.

## Support, Financial Aid, Immigration, Legal, and Other Resources

- The institution, as well as outside organizations, will provide resources to support those who have experienced Sexual Harassment.
  - Victims of criminal conduct have rights under the Crime Victims Bill of Rights, including but not limited to, the right to assistance from the Crime Victims Reparations Board and the Commissioner of Public Safety.
- The institution will, at the request of a Complainant choosing to transfer to another postsecondary institution, provide information about resources for victims of Sexual Assault at the institution to which the Complainant is transferring.
- Both parties will be provided with written information on general counseling, financial aid, immigration, legal and other appropriate resources at the commencement of a report or investigation and upon request.
- Any individual affected by or accused of Sexual Harassment will have equal access to support and counseling services offered through the institution. The institution encourages any individual who has questions or concerns to seek support of the institution identified resources. The Title IX Coordinator is available to provide



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information about the institution 's policy and procedure and to provide assistance. A list of identified resources is located at the end of this policy.

## Amnesty

- To encourage reporting and the gathering of information, the institution will not sanction a party or witness participating in a good faith Sexual Harassment complaint or a Sexual Harassment investigation procedure for drug or alcohol use related to the incident, provided that the drug or alcohol violations did not and do not place the health or safety of any other person at risk.
  - The institution may require the individual to attend a course or pursue other educational interventions related to alcohol and drugs.
- The institution's commitment to amnesty in these situations does not prevent action by police or other legal authorities against an individual who has illegally consumed alcohol or drugs.

## Bad Faith Complaints and False Information

- The institution encourages all good faith complaints of Sexual Harassment and has a responsibility to balance the rights of all parties. If the institution's investigation reveals that a report or Formal Complaint was knowingly false or knowing frivolous, the complaint will be dismissed and the person who filed the knowingly false complaint may be subject to discipline.
- It is a violation of this policy for any person to knowingly make a materially false statement during the course of an investigation, adjudication, or appeal.
- Violations of this Section are not subject to the investigation and adjudication processes in this policy; instead, they will be addressed under the Learner Professional Conduct Policy in the case of learners/students and other institution policies and standards, as applicable, for other persons.

## Rights of Parties

### Treatment with Dignity

The institution prohibits all personnel from suggesting that a Complainant is at fault for the reported Sexual Harassment or that the Complainant should have acted in a different manner to avoid being a victim of Sexual Harassment.



In line with the institution Values, specifically of Respect, all members of the the institution community are expected to treat Complainants, Respondents, witnesses, and others involved in a Sexual Harassment matter with dignity, while also supporting the impartial investigation and personal accountability for any violations of this policy.

The parties have a right to ask questions of the Title IX Coordinator or other individual investigating a complaint regarding policies, procedures, and the status of the investigation.

## **Supportive Measures**

The Title IX Coordinator/Designee may determine that reasonable supportive measures for the parties involved, or witnesses, are appropriate during complaint resolution (formal or informal), as well as outside of the complaint process.

- The Title IX Coordinator/ will attempt to meet with each party before imposing supportive measures in order to fairly assess the need for and scope of such measures.
- Supportive measures may be imposed or changed at any point during the investigation and resolution process to protect the interests of the parties.

Supportive measures will be determined on a case-by-case basis and may include separating individuals (“no contact” orders), counseling or support services, making alternative class-placement or workplace arrangements, or escort services.

There may be cases, such as those involving ongoing or repeated policy violations or identifiable safety risks, where an interim removal may be appropriate.

- In such cases, the Title IX Coordinator will consult with other institution officials, consider individual circumstances, and endeavor to consult both parties before imposing an interim removal.

Supportive measures are available regardless of whether an individual chooses to officially report an incident to the institution or pursue a complaint.





The institution will keep confidential any supportive measures and accommodations provided, to the extent that maintaining such confidentiality would not impair the ability of the institution to provide these measures.

Failure to comply with the terms of supportive measures may constitute a separate violation of this Policy.

To seek a supportive measure, individuals must contact the Title IX Coordinator.

## **Interim Removal**

- At any time after receiving a report of Sexual Harassment, a learner/student Respondent may be removed from one or more of the institution's Education Programs and/or Activities on a temporary basis if an individualized safety and risk analysis determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of Sexual Harassment justifies removal.
- In the case of a Respondent who is a non-learner employee (administrator, faculty, or staff), and in its discretion, the institution may place the Respondent on administrative leave at any time after receiving a report of Sexual Harassment, including during the investigation and adjudication process.
- For all other Respondents, including independent contractors and guests, the institution retains broad discretion to prohibit such persons from entering onto its campus and other properties at any time, and for any reason, whether after receiving a report of Sexual Harassment or otherwise.

## **Orders of Protection and Restraining Orders**

- Any Complainant, Respondent, or witness involved in a Sexual Harassment complaint who obtains an order of protection or restraining order must provide a copy of the order to the Title IX Coordinator.
- The institution will take reasonable steps to enforce an order of protection or restraining order on premises controlled by the institution.



## Participation in an Investigation

- Complainants, Respondents, and witnesses may choose to participate, or decline to participate, in an investigation.
- The participation of the parties is not required for the institution to proceed with an investigation.
- If an individual chooses to not participate, the version of facts relayed by others may be unrefuted, and the institution may not have all relevant evidence when determining the outcome of the investigation.
- All parties and witnesses participating in the investigation are expected to cooperate and provide complete and truthful information.
- During the investigation and resolution of a complaint, the Complainant and Respondent will have equal rights, including equal opportunities to:
  - Meet with the Title IX Coordinator and individual investigating a complaint.
  - Present oral or written statements.
  - Identify and have considered witnesses (including fact and expert witnesses) and other relevant inculpatory and exculpatory evidence.
  - The institution will not restrict the ability of the parties to gather and present relevant evidence on their own.
  - Suggest possible questions to be asked of witnesses and the other party.
  - Decide when and whether to repeat a description of an alleged incident of Sexual Harassment.
  - Access, in a similar and timely manner, to all information considered in the investigation.
  - Access to review and comment upon any information independently developed during the investigation.
  - Appeal determinations.
  - Access their own statements during and after resolution.



## Academic Freedom

- The institution is firmly committed to free expression and academic freedom, as well as being equally committed to creating and maintaining a safe, healthy, and harassment-free environment for all members of its community, and firmly believes that these two legitimate interests can coexist.
- Harassment and retaliation against members of the institution community are not protected expressions or the proper exercise of academic freedom.
- The institution will consider academic freedom in the investigation of reports of Sexual Harassment or retaliation that involve an individual's statements or speech.
- The institution will construe and apply this policy consistent with the principles of academic freedom outlined in the institution policies. In no case will a Respondent be found to have committed Sexual Harassment based on expressive conduct that is protected the principles of academic freedom outlined in the institution policies.

## Special Guidance Concerning Complaints of Sexual Assault, Dating Violence, Domestic Violence or Stalking

- The institution supports victims of Sexual Assault, Dating Violence, Domestic Violence, or Stalking, and strives to reinforce that these crimes are never the victim's fault.
- When a physical crime of violence has been perpetrated, the institution recommends that the victim immediately go to the emergency room of a local hospital and contact local law enforcement, in addition to making a prompt complaint under this policy.
- Any victim of Sexual Assault, Dating Violence, or Domestic Violence should do everything possible to preserve evidence by making certain that the crime scene is not disturbed. Preservation of evidence may be necessary for proof of the crime or in obtaining a protection order.
  - As necessary to preserve evidence, victims of Sexual Assault, Dating Violence, or Domestic Violence should not bathe, urinate, douche, brush teeth, or drink liquids until after they are examined and, if necessary, a rape examination is completed. Clothes should not be changed.
  - When necessary, seek immediate medical attention at an area hospital and take a full change of clothing, including shoes, for use after a medical



examination.

- Where appropriate, the Title IX Coordinator will assist, at the direction of law enforcement authorities, in obtaining, securing, and maintaining evidence in connection with an alleged incident of Sexual Assault.
- It is also important to take steps to preserve evidence in cases of Stalking, to the extent such evidence exists. In cases of Stalking, evidence is more likely to be in the form of letters, emails, text messages, etc., rather than evidence of physical contact and violence.
- Once a complaint of Sexual Assault, Dating Violence, Domestic Violence, or Stalking is made to the institution, the Complainant has several options such as, but not limited to:
  - Receiving assistance with accessing fair and respectful health care and counseling services. Contacting parents or a relative.
  - Seeking legal advice.
  - Seeking personal counseling (always recommended).
  - Pursuing legal action against the perpetrator.
  - Seeking an order of protection or restraining order from a court.
  - Pursuing disciplinary action through the institution.
  - Requesting that no further action be taken.
  - Requesting further information about the institution policy and procedures for addressing sexual and other harassment.
  - Requesting further information about available resources.
  - Investigation timeline and updates to parties.

## **Objections Generally**

Parties are expected to raise any objections, concerns, or complaints about the investigation, adjudication, and appeals process in a prompt and timely manner so that the institution may evaluate the matter and address it, if appropriate.





## Formal Complaint

A Complainant may file a Formal Complaint with the Title IX Coordinator requesting that the institution investigate and adjudicate a report of Sexual Harassment.

- The Complainant must be participating in, or attempting to participate in, one or more of the institution's Education Programs and/or Activities at the time of submission of the Formal Complaint.

The Title IX Coordinator may file a Formal Complaint on behalf of the institution in any case, including a case where a Complainant elects not to file a Formal Complaint, if doing so is not clearly unreasonable. Such action will normally be taken in limited circumstances involving serious or repeated conduct or where the alleged perpetrator may pose a continuing threat to the institution. Factors the Title IX Coordinator may consider include (but are not limited to):

- Whether a weapon was involved in the incident;
- Whether multiple assailants were involved in the incident;
- Whether the accused is a repeat offender; and
- Does the incident create a risk of reoccurrence.

If the Complainant or the Title IX Coordinator files a Formal Complaint, the institution will commence an investigation and proceed to adjudicate the matter.

- In all cases where a Formal Complaint is filed, the Complainant will be treated as a party, irrespective of the party's level of participation.
- In a case where the Title IX Coordinator files a Formal Complaint, the Title IX Coordinator will not act as a Complainant or otherwise as a party for purposes of the investigation and adjudication processes.

## Informal Resolution

At any time after the parties are provided written notice of the Formal Complaint and before the completion of any Appeal, the parties may voluntarily consent, with the Title IX Coordinator's approval, to engage in mediation, facilitated resolution, or other form of dispute resolution the goal of which is to enter into a final resolution resolving the allegations raised in the Formal Complaint by agreement of the parties.

- Administrative Adjudication is a form of informal resolution.



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The specific process for any informal resolution will be determined by the parties and the Title IX Coordinator, in consultation together. Before commencing the informal resolution process agreed upon, the Title IX Coordinator will transmit a written notice to the parties that:

- Describes the parameters and requirements of the informal resolution process to be utilized;
- Identifies the individual responsible for facilitating the informal resolution (who may be the Title IX Coordinator, another institution official, or a suitable third-party);
- Explains the effect of participating in informal resolution and/or reaching a final resolution will have on a party's ability to resume the investigation and adjudication of the allegations at issue in the Formal Complaint; and
- Explains any other consequence resulting from participation in the informal resolution process, including a description of records that will be generated, maintained, and/or shared.

After receiving the written notice specified in this paragraph, each party must voluntarily provide written consent to the Title IX Coordinator, before the informal resolution process may begin.

During the informal resolution process, the investigation and adjudication processes that would otherwise occur are paused and all related deadlines are suspended.

If the parties reach a resolution through the informal resolution process other than Administrative Adjudication, and the Title IX Coordinator agrees that the resolution is not clearly unreasonable, the Title IX Coordinator will put the terms of the agreed resolution in writing and give them to the parties for their written signature indicating their agreement.

- Once both parties and the Title IX Coordinator sign the written resolution, the resolution is final and the allegations addressed by the resolution are considered resolved and will not be subject to further investigation, adjudication, remediation, or discipline by THE INSTITUTION, unless otherwise provided in the resolution itself, unless it can be shown that a party induced the resolution by fraud, misrepresentation, or other misconduct or where required to avoid a manifest injustice to either party or to THE INSTITUTION.



- Except for a resolution resulting from the Administrative Adjudication process, all other forms of informal resolution pursuant to this Section are not subject to appeal.

If the form of informal resolution is Administrative Adjudication there will not be an agreed resolution requiring the parties' signatures; instead, the determination issued by the administrative officer will serve as the resolution and conclude the informal resolution process, subject only to any right of appeal.

A party may withdraw their consent to participate in informal resolution at any time before a resolution has been finalized.

Unless the Title IX Coordinator provides an extension, any informal resolution process must be completed within 21 days from the parties agreeing to the informal resolution process.

- If an informal resolution process does not result in a resolution within twenty-one days, and absent an extension, or temporary suspension of the informal resolution process), or other contrary ruling by the Title IX Coordinator, the informal resolution process will be deemed terminated, and the Formal Complaint will be resolved through the investigation and adjudication procedures provided in this policy.
- The Title IX Coordinator may adjust any time periods or deadlines in the investigation and/or adjudication process that were suspended as provided in this Section.

Other language in this Section notwithstanding, informal resolution will not be permitted if the Respondent is a non-learner/student employee accused of committing Sexual Harassment against a learner/student.

## Investigation

### Investigation Timeline

The institution will promptly investigate complaints of Sexual Harassment.

- The institution will attempt to conclude most investigations in 60 days, depending on the availability of parties, witnesses, evidence, and other scheduling considerations.

The parties will be given periodic updates regarding the status of the investigation.

- If, at any time, a party would like additional updates, that party must contact the Title IX Coordinator/Designee.



The investigation will involve the gathering of evidence relevant to the alleged harassment, including inculpatory evidence (which implies or tends to establish responsibility for a violation of the Sexual Harassment Policy as alleged) and exculpatory evidence (which implies or tends to establish a lack of responsibility for a violation of the Sexual Harassment Policy as alleged).

The burden of gathering evidence sufficient to reach a determination in the adjudication lies with the institution and not with the parties.

The investigation will culminate in a written investigation report that will be submitted to the adjudicator during the selected adjudication process.

### **Presenting Evidence in Investigations**

The investigation is a party's opportunity to present testimonial and other evidence that the party believes is relevant to resolution of the allegations in the Formal Complaint.

The Investigator retains discretion to limit the number of witness interviews the Investigator conducts or the other evidence the Investigator seeks to gather if the Investigator finds:

- That testimony or evidence would be unreasonably cumulative (that is, repeats what has already been established);
- If the witnesses are offered solely as character references and do not have information relevant to the allegations at issue, or
- If the witnesses or evidence are offered to provide information that is categorically inadmissible, such as information concerning sexual history of the Complainant.

A party that is aware of and has a reasonable opportunity to present particular evidence and/or identify particular witnesses during the investigation, and elects not to, will be prohibited from introducing any such evidence during the adjudication absent a showing of mistake, inadvertence, surprise, or excusable neglect.

### **Respondent Acceptance of Responsibility**

The Respondent may, at any time prior to the issuance of a final investigatory report, accept responsibility for the conduct underlying the complaint.

If the Respondent accepts responsibility prior to the issuance of a final investigatory report, the Title IX Coordinator/Designee will refer the case to the appropriate sanctioning official





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for imposition of any appropriate disciplinary or remedial action. In such cases, the sanctioning official will issue a written decision, including the sanctions imposed; whether the Complainant will receive any ongoing support measures or other remedies as determined by the Title IX Coordinator; and a description of the process and grounds for Appeal.

## **Preponderance of the Evidence Standard**

In making any determination on the resolution of the complaint following an investigation, the evidentiary standard is the preponderance of the evidence; that is, whether it is more likely than not that Sexual Harassment occurred.

The burden is on the institution, as Investigator, to gather sufficient information to reach a fair, impartial decision as to whether a policy violation has occurred.

## **Adjudication Process Selection**

Two different adjudication processes, Hearing and Administrative, may be available to the parties following an investigation.

The parties are notified and advised that the hearing process is the default process for adjudicating all Formal Complaints and will be used unless both parties voluntarily consent to Administrative Adjudication as a form of informal resolution (where available—that is, in cases other than those in which a non-student employee Respondent is alleged to have Sexually Harassed a student).

- If Administrative Adjudication is available, a written consent to Administrative Adjudication will be sent with the notice and will advise each party that if both parties execute the written consent to Administrative Adjudication the Administrative Adjudication process will be used instead of the Hearing process.

Parties are urged to carefully review this policy, consult with their advisor, and consult with other persons as they deem appropriate (including an attorney) before consenting to Administrative Adjudication.

Each party will have three days from transmittal of the notice to return the signed written consent form to the Title IX Coordinator. If either party does not timely return the signed written consent, that party will be deemed not to have consented to Administrative Adjudication and the Formal Complaint will be adjudicated pursuant to the hearing process.



## Hearing

The Hearing Officer will convene and conduct a pre-hearing conference and a Hearing.

- The pre-Hearing conference and the Hearing will be conducted live, with simultaneous and contemporaneous participation by the parties and their advisors.
- By default, both the pre-Hearing conference and the Hearing will be conducted with the Hearing Officer, the parties, the advisors, and other necessary institution personnel together in the same physical location. However, upon request of either party, the parties will be separated into different rooms with technology enabling the parties to participate simultaneously and contemporaneously by video and audio.
- In the Hearing Officer's discretion, the pre-Hearing conference and/or the Hearing may be conducted virtually, by use of video and audio technology, where all participants participate simultaneously and contemporaneously by use of such technology.

While the Hearing procedure and rulings from the Hearing Officer will govern the particulars of the Hearing, each Hearing will include, at a minimum:

- Opportunity for each party to address the Hearing Officer directly and to respond to questions posed by the Hearing Officer;
- Opportunity for each party's advisor to ask directly, orally, and in real time, relevant questions, and follow up questions, of the other party and any witnesses, including questions that support or challenge credibility;
- Opportunity for each party to raise contemporaneous objections to testimonial or non-testimonial evidence and to have such objections ruled on by the Hearing Officer and a reason for the ruling provided;
- Opportunity for each party to submit evidence that the party did not present during the investigation due to mistake, inadvertence, surprise, or excusable neglect; and
- Opportunity for each party to make a brief closing argument.

Except as otherwise permitted by the Hearing Officer, the Hearing will be closed to all persons except the parties, their advisors, the investigator, the Hearing Officer, the Title IX Coordinator, and other necessary institution personnel. With the exception of the Investigator and the parties, witnesses will be sequestered until such time as their testimony is complete.



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During the Hearing, the parties and their advisors will have access to the investigation report and evidence that was transmitted to them.

While a party has the right to attend and participate in the Hearing with an advisor, a party and/or advisor who materially and repeatedly violates the rules of the Hearing in such a way as to be materially disruptive may be barred from further participation and/or have their participation limited at the discretion of the Hearing Officer.

Subject to the minimum requirements specified in this section, the Hearing Officer will have sole discretion to determine the manner and particulars of any given hearing, including with respect to the length of the hearing, the order of the hearing, and questions of admissibility.

- The Hearing Officer will independently and contemporaneously screen questions for relevance, in addition to resolving any contemporaneous objections raised by the parties and will explain the rationale for excluding any evidence.

The Hearing is not a formal judicial proceeding and strict rules of evidence do not apply. The Hearing Officer will have discretion to modify the Hearing procedure, when good cause exists to do so, and provided the minimal requirements specified in this section are met.

**Subjection to Questioning:** In the event that any party or witness refuses to attend the Hearing, or attends but refuses to submit to questioning by the parties' advisors, the statements of that party or witness, whether given during the investigation or during the Hearing, will not be considered by the Hearing Officer in reaching a determination of responsibility.

- However, the Hearing Officer may consider the testimony of any party or witness, whether given during the investigation or during the Hearing, if the parties jointly stipulate that the testimony may be considered or in the case where neither party requested attendance of the witness at the Hearing.
- The Hearing Officer will not draw an inference in the determination regarding responsibility based solely on a party or a witness's absence from the live Hearing and/or refusal to submit to questioning by the parties' advisors.

Upon completion of the Hearing, the Hearing Officer will objectively evaluate all relevant evidence collected during the investigation, including both inculpatory and exculpatory evidence, together with testimony and non-testimony evidence received at the Hearing, and ensure that any credibility determinations made are not based on a person's status as a Complainant, Respondent, or witness.



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- The Hearing Officer will take care to exclude from consideration any evidence that was ruled inadmissible at the pre-hearing conference, during the hearing, or by operation of Subjection to Questioning.

Written Decision: After reaching a determination and consulting with the appropriate official and Title IX Coordinator, the Hearing Officer will prepare a written decision that will include:

- Identification of the allegations potentially constituting Sexual Harassment made in the Formal Complaint;
- A description of the procedural steps taken by the institution upon receipt of the Formal Complaint, through issuance of the written decision, including notification to the parties, interviews with the parties and witnesses, site visits, methods used to gather non-testimonial evidence, and the date, location, and people who were present at or presented testimony at the Hearing;
- Articulate findings of fact, made under a preponderance of the evidence standard, that support the determination;
- A statement of, and rationale for, each allegation that constitutes a separate potential incident of Sexual Harassment, including a determination regarding responsibility for each separate potential incident;
- The discipline determined by the appropriate official as referenced in Sanctions;
- Whether the Complainant will receive any ongoing support measures or other remedies as determined by the Title IX Coordinator; and
- A description of the institution process and grounds for Appeal.

The Hearing Officer's written determination is transmitted to the parties, which concludes the hearing process, subject to any right of Appeal.

## Administrative Adjudication (Optional Form of Informal Resolution)

The parties may consent to have a Formal Complaint resolved by Administrative Adjudication as a form of informal resolution, instead of the Hearing process.

- Other language in this section notwithstanding, informal resolution will not be permitted if the Respondent is a non-learner/student employee accused of committing Sexual Harassment against a learner/student.





Administrative adjudication is voluntary and must be consented to in writing by both parties and approved by the Title IX Coordinator.

At any time before the Administrative Officer's determination is issued, a party has the right to withdraw from Administrative Adjudication and request a live Hearing.

The Administrative Officer will transmit a written decision in the manner as specified in the Written Decision statement and that written decision serves as the resolution for purposes of Administrative Adjudication.

Transmittal of the Administrative Officer's written determination concludes the administrative adjudication, subject to any right of Appeal.

#### Dismissal During Investigation or Adjudication

The institution will dismiss a Formal Complaint at any point during the investigation or adjudication process if the Title IX Coordinator determines that one or more of the following is true:

- The conduct alleged in the Formal Complaint would not constitute Sexual Harassment, even if proved; or
- The conduct alleged in the Formal Complaint falls outside the scope of the policy (that is, because the alleged conduct did not occur in the institution's Education Programs and/or Activities and/or the alleged conduct occurred outside the geographic boundaries of the United States).

The institution may dismiss a Formal Complaint at any point during the investigation or adjudication process if the Title IX Coordinator determines that any one or more of the following is true:

- The Complainant provides the Title IX Coordinator written notice that the Complainant wishes to withdraw the Formal Complaint or any discrete allegations therein (in which case those discrete allegations may be dismissed);
- The Respondent is no longer enrolled or employed by the institution, as the case may be; or
- Specific circumstances prevent the institution from gathering evidence sufficient to reach a determination as to the Formal Complaint, or any discrete allegations therein (in which case those discrete allegations may be dismissed).



In the event the Title IX Coordinator dismisses a Formal Complaint pursuant to this section, the Title IX Coordinator will provide written notice of dismissal to the parties and advise them of their right to Appeal.

- The Title IX Coordinator may refer the subject matter of the Formal Complaint to the appropriate the institution officials.
- A dismissal pursuant to this section is presumptively a final determination as it pertains to this policy, unless otherwise specified in writing by the Title IX Coordinator in the written notice of dismissal.

## **Advisor of Choice**

At any meeting described in this policy until an investigation, adjudication, and appeal are complete, the Complainant and Respondent will have the right to be accompanied by an advisor of their choice to all meetings, interviews, and hearings that are part of the investigation, adjudication, and appeal process. The advisor may be, but is not required to be, an attorney.

Except for the questioning of witnesses during the Hearing, the advisor will play a passive role and is not permitted to communicate on behalf of a party, insist that communication flow through the advisor, or communicate with the institution about the matter without the party being included in the communication.

In the event a party's advisor of choice engages in material violation of the parameters specified in this policy, the institution may preclude the advisor from further participation, in which case the party may select a new advisor of their choice.

In the event a party is not able to secure an advisor to attend the Hearing and requests that the institution provide an advisor, the institution will provide the party an advisor, without fee or charge to the party, who will conduct questioning on behalf of the party at the Hearing.

- The institution will have sole discretion to select the advisor it provides. The advisor provided is not required to be an attorney.
- The institution is not required to provide a party with an advisor in any circumstance except where the party does not have an advisor present at the Hearing and requests that the institution provide an advisor.



## Treatment Records and Other Privileged Information

During the investigation and adjudication processes, the Investigator and adjudication personnel are not permitted to access, consider, disclose, permit questioning concerning, or otherwise use:

- A party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, or
- Information or records protected from disclosure by any other legally recognized privilege, such as the attorney client privilege unless the institution has obtained the party's voluntary, written consent to do so for the purposes of the investigation and adjudication process.
- The Investigator and/or Adjudicator may consider any such records or information otherwise covered by this section if the party holding the privilege affirmatively discloses the records or information to support their allegation or defense.

## Sexual History

During the investigation and adjudication processes, questioning regarding a Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

However, a Complainant who affirmatively uses information otherwise considered irrelevant by this section for the purpose of supporting the Complainant's allegations, may be deemed to have waived the protections of this section.

## Recordings

Wherever this policy specifies that an audio or video recording will be made, the recording will be made only by THE INSTITUTION and is considered property of the institution, subject to any right of access that a party may have under this policy, FERPA, and other applicable federal, state, or local laws.



Only the institution is permitted to make audio or video recordings under this policy. The surreptitious recording of any meeting, interview, hearing, or other interaction contemplated under this policy is strictly prohibited. Any party who wishes to transcribe a Hearing by use of a transcriptionist must seek pre-approval from the Hearing Officer.

## Sanctions

If the Hearing Officer finds that a Respondent committed a policy violation, the decision will be communicated to the appropriate Sanctioning Official based on the Respondent's status (learner, employee, third party) prior to the Hearing Officer issuing a written decision.

- Relevant sanctioning policy/procedures for Respondents;
  - For learners:
    - Warning, Probation, Dismissal, and Appeal Policy
    - Warning, Probation, Dismissal, and Appeal Procedure
  - For the institution employees, as applicable:
    - Appeals Policy/Procedure
    - Faculty Misconduct
    - Third parties (such as nonemployee physician/scientists, patients, alumni, contractors, vendors, and visitors)

The investigatory provisions of the above policies and procedures do not apply to investigations under the Title IX Policy and Procedure.

The appropriate Sanctioning Official will communicate decisions regarding sanctions to the Hearing Officer, and they will be included in the Hearing Officer's written decision. The determination of sanctions is final, subject only to the right of Appeal provided in this policy.

## Possible Sanctions and Remediation

Violations of this policy may result in sanctions and/or corrective actions, which can include, but are not limited to:

- Verbal warning
- Written warning
- Disciplinary hold on academic and/or financial records





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- Performance improvement/management process
- Required counseling
- Required training or education
- Campus access restrictions
- No trespass order (with respect to campus locations)
- No contact directive (with respect to an individual)
- Loss of privileges
- Loss of oversight, teaching or supervisory responsibility
- Probation
- Termination of contract (for contractors)
- Demotion
- Loss of pay increase
- Transfer (employment)
- Termination of contractual arrangements
- Revocation of offer (employment or admissions)
- Disciplinary suspension
- Suspension with pay
- Suspension without pay
- Dismissal
- Degree revocation
- Termination of employment

Sanctioning Official may assign other sanctions as appropriate in each particular situation. To the extent appropriate, sanctions and corrective actions will be imposed in accordance with relevant sanctioning guidelines, policies, procedures, and contracts applicable to the Respondent.

The institution may take steps to remediate the effects of a violation on victims and others.

## Appeals

Either party may appeal the determination of an adjudication (through Administrative Adjudication or the Hearing process), or a dismissal of a Formal Complaint, only on one or more of the following grounds, no other grounds for appeal are permitted:

- A procedural irregularity affected the outcome;



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- There is new evidence that was not reasonably available at the time the determination or dismissal was made, that could have affected the outcome;
- The level of sanction; and/or
- The Title IX Coordinator, Investigator, Hearing Officer, or Administrative Officer had a conflict of interest or bias for or against Complainants or Respondents generally, or against the individual Complainant or Respondent, that affected the outcome.

Based on the respondent's status (learner, employee, third party), the relevant Appeal procedures are found in corresponding policies/procedures identified below:

- For learners:
  - Warning, Probation, Dismissal, and Appeal Policy
  - Warning, Probation, Dismissal, and Appeal Procedure
- For the institution employees, as applicable:
  - Appeals Policy/Procedure
  - Faculty Misconduct Policy
  - Third parties (such as nonemployee physician/scientists, patients, alumni, contractors, vendors, and visitors)

The determination of an Adjudication or dismissal of a Formal Complaint, including any discipline, becomes final when the time for Appeal has passed with no party filing an Appeal or, if any Appeal is filed, at the point when the Appeal officer has resolved all Appeals, either by dismissal or by transmittal of a written decision. No further review beyond the Appeal is permitted.

## **Vendors, Contractors and Third Parties**

The institution does business with various vendors, contractors, and other third parties who are not students or employees of the institution. Notwithstanding any rights that a given vendor, contractor, or third-party Respondent may have under this policy, the institution retains its right to limit any vendor, contractor, or third-party's access to campus for any reason.



The institution retains all rights it enjoys by contract or law to terminate its relationship with any vendor, contractor, or third-party irrespective of any process or outcome under this policy.

## **Consolidation of Complaints**

The institution may consolidate Formal Complaints as to allegations of Sexual Harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one party against the other party, where the allegations of Sexual Harassment arise out of the same facts or circumstances.

A Formal Complaint of Retaliation may be consolidated with a Formal Complaint of Sexual Harassment.

## **Education**

The institution recognizes that the prevention of Sexual Harassment is important and offers educational programming to a variety of groups covered by this Policy and the Procedure.

- Among other elements, such training will cover relevant definitions, procedures, and sanctions; will provide safe and positive options for bystander intervention; and will provide risk reduction information, including recognizing warning signs of abusive behavior and how to avoid potential attacks. To learn more about education resources, please contact the Title IX Coordinator.

## **Signatures and Forms of Consent**

For purposes of this policy, either a physical signature or digital signature will be sufficient to satisfy any obligation that a document be signed. Where this policy provides that written consent must be provided, consent in either physical or electronic form, containing a physical or digital signature will suffice.

## **Outside Appointments, Dual Appointments, and Delegations**

The institution may retain and appoint suitably qualified persons who are not institution employees to fulfill any function of the institution under this policy, including, but not limited to, the Investigator, Hearing Officer, Administrative Officer, Informal Resolution Officer, and/or Appeal Officer.



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The institution may appoint two or more persons to jointly fulfill the role of Investigator, Hearing Officer, Administrative Officer, Informal Resolution Officer, and/or Appeal Officer.

The functions assigned to a given the institution official under this policy, including but not limited to the functions assigned to the Title IX Coordinator, Investigator, Hearing Officer, Administrative Officer, Informal Resolution Officer, and Appeal Officer, may be delegated by such the institution official to any suitably qualified individual and such delegation may be recalled by the institution at any time.

## Record Retention

The institution will retain, through its data management systems, documents related to Sexual Harassment complaints, investigations, and resolution consistent with the institution's Records Management and Retention Policy. Records of this type will be made available for inspection and/or published consistent with federal or state law.

## Definitions

**Coercion:** Direct or implied threat of force, violence, danger, hardship, or retribution sufficient to persuade a reasonable person of ordinary susceptibility to perform an act which otherwise would not have been performed or acquiesce in an act to which one would otherwise not have submitted. Coercion can include unreasonable and sustained pressure for sexual activity.

Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. A person's words or conduct cannot amount to Coercion for purposes of this policy unless they wrongfully impair the other's freedom of will and ability to choose whether or not to engage in sexual activity.

**Complaint:** An allegation of Sexual Harassment reported to the institution.

**Complainant:** An individual who is alleged to be the victim of conduct that could constitute Sexual Harassment.

**Confidential Care and Support Resources:** individuals, who by the nature of their work, are required by law to keep information shared with them confidential and who cannot share information revealed to them without the express permission of the individual sharing the information. These individuals are prohibited by law from breaking confidentiality unless there is an imminent threat of harm to self or others or, in some cases, when a report





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involves suspected abuse of a minor under the age of 18. These campus and community professionals include medical providers, mental health providers, mental health counselors within the environment of counseling sessions, ordained clergy, rape crisis counselors, and attorneys.

**Consent:** Words or actions that a reasonable person from the perspective of the Respondent would understand as agreement to engage in the sexual conduct at issue. A person who is Incapacitated is not capable of giving Consent.

**Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship will be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

**Domestic Violence:** Acts of violence committed by a current or former spouse or intimate partner of a victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

**Education Programs and Activities:** All the operations of the institution, including, but not limited to, in-person and online educational instruction, employment, research activities, extracurricular activities, athletics, residence life, dining services, performances, and community engagement and outreach programs. The term applies to all activity that occurs on campus or on other property owned or occupied by the institution. It also includes off-campus locations, events, or circumstances over which the institution exercises substantial control over the Respondent and the context in which the Sexual Harassment occurs, including Sexual Harassment occurring in any building owned or controlled by a student organization that is officially recognized by the institution.

**Formal Complaint:** A document filed by a Complainant or signed by the Title IX Coordinator alleging Sexual Harassment against a Respondent and requesting that the institution investigate the allegation of Sexual Harassment in accordance with this policy. At the time of



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filing a Formal Complaint, a Complainant must be participating in or attempting to participate in the institution's Education Programs and Activities. A "document filed by a Complainant" means a document or electronic submission (such as an email) that contains the Complainant's physical or electronic signature or otherwise indicates that the Complainant is the person filing the Complaint.

**Hostile Environment Sexual Harassment:** Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person access to the institution's Education Programs and Activities.

**Incapacitation:** The state where a person does not appreciate the nature or fact of sexual activity due to the effect of drugs or alcohol consumption, medical condition or disability, or due to a state of unconsciousness or sleep.

**Investigator:** Individual(s) designated by the Title IX Coordinator to investigate a particular complaint (and may include the Title IX Coordinator).

**Learner/Student:** An individual enrolled in the institution

**Parties:** The Complainant and Respondent.

**Personally Identifiable Information:** Includes but is not limited to: (i) name; (ii) the name of parent/s or other family members; (iii) address or family address; (iv) a personal identifier, such as a social security number, student or employee number, or biometric record; (v) photograph; (vi) telephone number; (vii) other indirect identifiers, such as a date of birth, place of birth, or mother's maiden name; (viii) other information that, alone or in combination, is linked or linkable to a specific individual and that would allow a reasonable person in the institution community, who does not have personal knowledge of the relevant circumstances, to identify the individual with reasonable certainty; and (ix) information requested by a person whom The institution reasonably believes knows the identity of an individual to who a protected record relates.

**Personnel:** For the purpose of this policy, the term personnel includes staff physicians, scientists, research temporary professionals, residents, fellows, students, emeritus staff, volunteers, allied health staff, and contractors who regularly work in the institution facilities.



**Preponderance of Evidence Standard:** A standard for determining facts under this policy that asks whether “it is more likely than not” that Sexual Harassment occurred.

**Quid Pro Quo Sexual Harassment:** An employee of the institution conditioning the provision of an aid, benefit, or service of the institution on an individual’s participation in unwelcome sexual conduct.

**Respondent:** An individual who has been reported to be the perpetrator of conduct that could constitute Sexual Harassment.

**Reporting Official:** Includes the institution Board of Governors, faculty members, administrators, program directors or other employees engaged in or supporting educational programs and activities. A Reporting Official must promptly forward any such report of Sexual Harassment to the Title IX Coordinator.

**Retaliation:** intimidation, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege secured by Title IX and its implementing regulations or because an individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under this policy.

**Sexual Assault:** Any actual or attempted sexual contact with another person without that person’s consent. As used in this policy, sexual contact includes intentional contact by the accused with the victim’s genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed, or unlawfully coerced touching by the victim of another’s genital area, groin, inner thigh, buttocks, or breasts, whether clothed or unclothed. Sexual Assault is a crime under many State laws.

Sexual assault includes, but is not limited to, an offense that meets any of the following definitions:

- **Fondling:** The touching of the private body parts (including the genital area, groin, inner thigh, buttocks, or breast) of another person for the purpose of sexual gratification, without consent.
- **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.



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- Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, oral penetration by a sex organ of another person, or oral contact with the sex organ of another person, without consent.
- Statutory rape: Sexual intercourse with a person who is under the statutory age of consent.

**Sexual Harassment:** Conduct on the basis of sex that constitutes Quid Pro Quo Sexual Harassment, Hostile Environment Sexual Harassment, Sexual Assault, Domestic Violence, Dating Violence, or Stalking.

**Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: fear for their safety or the safety of others; or suffer substantial emotional distress.

**Supportive Measures:** Non-disciplinary, non-punitive individualized services offered, as appropriate, and reasonably available, and without fee or charge, that are designed to restore or preserve equal access to the institution's Education Programs and Activities without unreasonably burdening another party, including measures designed to protect the safety of all parties implicated by a report or the institution's education environment, or to deter Sexual Harassment. Supportive measures may include: counseling, extensions of academic or other deadlines, course-related adjustments, modifications to work or class schedules, campus escort services, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of campus, and other similar measures. Supportive Measures may also include mutual restrictions on contact between the parties implicated by a report.

## References

[Family Educational Rights and Privacy Act \(FERPA\). 20 U.S.C. § 1232g; 34 C.F.R. Part 99](#)

[Title IX of the Education Amendments of 1972, 20. U.S.C. §1681](#)

Violence Against Women Reauthorization Act of 2013, Pub. L. No. 113-4, § 304, 127 Stat. 54, 89-92 (2013) (codified at 20 U.S.C.A. § 1092(f)(1)(F) (iii), § 1092(f)(8)(A)-(B))





## 21. Student Mistreatment Policy

### Scope

Applies to all medical students, visiting medical students (VMS), and faculty, residents, fellows, and allied health employees when interacting with students.

### Purpose

To inform all educators and students of the expected standards of behavior toward medical students.

### Policy

- The institution expects all persons who interact with students in our learning environments to treat them with mutual respect; without regard to race, sex, age, religion, national origin, marital status, color, creed, sexual orientation, gender identity or expression, disability (physical or mental), genetic information, veteran status, familial status, and status with regard to public assistance or other protected categories.
- The institution works to provide a learning environment free of student mistreatment, including belittlement, humiliation, hostility, and abuse.
- All institution students, faculty, residents, fellows and allied health employees should report student mistreatment that they observe or have reason to suspect.
- Reports of student mistreatment can be made to the Student Services office, school administrators, the school ombudsperson, faculty, advisors, and mentors or anonymously through the institution compliance program hotline/portal.
- The thoroughness of an investigation may be impacted when anonymous reports are made.
- Any individual who receives a report of mistreatment should report the incident directly to the Dean of Student Services.
- The Student Services office, medical school and College of Medicine representatives assigned to address alleged charges of student mistreatment will do so in a fair, objective, and confidential manner, taking care to respect the rights (and anonymity, as applicable) of all involved parties.
- The institution will not allow retaliation against or intimidation of a complainant.



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- The Student Services office is responsible for oversight and trend analysis of the incidence and character of student mistreatment at the
- This information will be reported on a periodic basis to the institution Executive Committee and the institution Education Committee and to outside regulatory bodies as required by regulation or law.



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Policies on

## **Patient/Visitor Behavior (including Harassment)**



## 22. Patient and Visitor Conduct Policy

### Scope

Applies to all institution personnel when addressing patient or visitor actions, behaviors, requests or comments that are contrary to the institution's goal of providing a safe, inclusive environment for all.

### Purpose

To ensure that patients receive timely and quality care while protecting employees, learners and other patients from discrimination, harassment (sexual or otherwise), non-violent misconduct, and violent behaviors.

### Policy

- The institution prohibits misconduct, sexual harassment and discrimination based on race, color, creed, religion, gender, sexual orientation, gender identity or expression, national origin, age, disability or any other personal attribute from any patient or visitor.
- In achieving the institution's goals of providing a safe, inclusive environment for all, while also always providing the best care to patients, requests from patients or visitors for a specific gender, race, religion, sexual orientation or other personal attribute of a staff member must not be granted except in the following limited circumstances:
  - Emergent care situations.
  - When a patient's health would be adversely affected.
  - When a patient's cognitive impairment or limited decision-making capabilities warrant an exception.
  - When certain cultural or religious beliefs warrant an exception.
- The institution's care team will collaborate and use judgment and discretion in decision-making for granting a request for personal attributes of any institution staff member. The exceptions are rare circumstances and must meet at least one of the above criteria.
- Institution leaders will provide support to learners and staff members who are targets of patient misconduct and/or discrimination.
- Personnel will report acts of misconduct using the appropriate reporting mechanism based on the respective related procedure.





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- Personnel will report ALL requests for personal attributes of staff members using the appropriate reporting mechanism based on the respective related procedure.
- The institution prohibits retaliation or intimidation for reporting violations.



## 23. Patient and Visitor Requests for Personal Attributes of Institutional Personnel Procedure

### Scope

Applies to all institution personnel when addressing patient or visitor requests for personal attributes (race, color, religion, sexual orientation, gender, or any other personal attribute) of institution personnel.

### Purpose

To outline the steps to be taken when institution personnel encounter patients or visitors requesting institution personnel with specific personal attributes.

### Procedure

Specific request from patient or visitor for a staff member with a personal attribute.

#### Patient or Visitor:

1. Makes a personnel request based on a personal attribute.

#### Employee, Volunteer, Learner, or other Personnel:

2. Approach with curiosity to understand the nature/reason for the request.
3. Utilize the care team's decision process to determine whether or not request should be granted.
4. If the care team has decided to deny the request, communicate this to the patient or visitor by utilizing perspective-taking strategies and notifying the patient or visitor that the institution strives to create a safe, diverse and inclusive environment for all.
5. Document the request in the appropriate reporting mechanism.
  - Note: If the request was egregious and resulted in a situation in which a clinician prefers to transfer care to another clinician, he/she may do so if an equally qualified clinician is available.

#### Care Team:

6. Collaborate to use judgment and discretion when assessing a patient or visitor request.



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Request must be denied except in limiting circumstances where at least one of the four criteria applies:

- a. When emergent care situations warrant the exception.
- b. When a patient's health would be adversely affected.
- c. When cognitive impairments and/or limiting decision-making capabilities warrant the exception.
- d. When cultural and/or religious beliefs warrant the exception.



## 24. Disruptive Visitor Removal Guideline

Guidelines are recommendations, rather than rigid rules. Guidelines can be modified using professional judgment and may be adapted to many different situations.

### Scope

Applies to the institution Nurse Managers, Shift Supervisors, and Campus Security staff when involved with removing a visitor or visitors from the hospital as a means to manage visitor initiated, point of care violence in the workplace, and/or deescalate disruptive visitor behavior.

### Purpose

To provide guidance to Nurse Managers, Shift Supervisors, and Campus Security staff when removing a visitor from the institution. For a temporary period of time, this is an appropriate action to take in order to assure workplace safety.

### Guideline

- Involved personnel are encouraged to de-escalate disruptive behavior using perspective taking strategies as a first line tactic.
- If de-escalation of disruptive behavior is ineffective, involved personnel are encouraged to contact the Nurse Manager (M-F business hours) or the Shift Supervisor (during off hours, nights, weekends and holidays) to report a disruptive visitor. (Note: For threatening behavior, contact Campus Security by dialing 911)
- The Nurse Manager/ Shift Supervisor is encouraged to notify Campus Security staff of the disruptive visitor behavior.
- During off hours, nights, weekends and holidays, the Shift Supervisor will determine if contacting the Administrator On Call is warranted.
- Nurse Manager/ Shift Supervisor, and Campus Security staff are encouraged to discuss the situation with the personnel involved, prior to engaging in conversation with the visitor.
- If there is reasonable belief a visitor committed any of the acts as outlined below, the Nurse Manager/ Shift Supervisor or Campus Security staff have the discretion and authority to remove a visitor from the institution. No prior authorization from hospital leadership is required.
  - Visitor-initiated point of care violence toward staff or patients.





- Physical act of aggression (e.g. hitting, kicking, biting)
  - Use of bodily fluids (e.g. spitting)
  - Unwanted and/or inappropriate physical contact with staff
    - Inappropriate touching (e.g. fondling)
    - Confirmed or unconfirmed sexual assault/ harassment
  - Threats of violence
  - Destruction of institution property
  - Refusal to comply with institution Policy. Examples include but are not limited to:
    - Search of Patients and Visitors Policy
    - Smoking Policy
    - Photography/ Videography Policy
    - Weapons Policy
- If the reported incident involves an allegation related to the following acts or situations outlined below the Nurse Manager/ Shift Supervisor, Campus Security staff are encouraged to de-escalate disruptive behavior using perspective taking strategies as a first line tactic and reinforce behavioral expectations. Removal from the hospital may be considered on a case-by-case scenario. No prior authorization from hospital administration is required.
  - Examples include but are not limited to:
    - Verbal harassment
    - An ongoing pattern of negatively interfering with patient care activities
    - Under the influence of drugs and/or alcohol (confirmed or suspected)
- Nurse Manager/ Shift Supervisor and/or Campus Security staff can consider the following when removing a visitor(s) from the hospital:
  - Provide direction on when the visitor can return and under what conditions.
  - Inform the visitor the exhibited behavior might be reviewed by the hospital's Administration.
  - When appropriate and based on personal judgement:
    - Campus Security staff can confirm the visitor has vacated institution property.
    - Campus Security staff can notify local law enforcement when applicable.
    - Nurse Manager/ Shift Supervisor and/or Campus Security staff can notify the Hospital Medical Director, Associate Administrator, and



Hospital Safety Manager via email that a visitor has been removed from the hospital.

- Campus Security personnel can escalate for a formal threat assessment when applicable.
- If the visitor is in the hospital for patient visitation purposes, the patient's primary nurse can document the visitor's observed behavior, placing a family/visitor flag in the patient's medical record.
- Hospital leadership, in collaboration with the immediate care team, local unit leadership and Campus Security staff may debrief the situation and determine if further restrictions are warranted and/or inform the visitor of further imposed restrictions/ expectations associated with returning to the institution as a visitor.

## Guideline Notes

- If the visitor(s) returns during the time-out period, personnel can contact Campus Security.
- Personnel can report patient, family, or visitor requests, actions, harassment (sexual or otherwise), comments, or non-violent/violent behaviors that conflict with the institution goals of providing a safe and inclusive environment for all or do not respect the race, color, creed, religion, gender, sexual orientation, gender identity or expression, national origin, age, disability or any other personal characteristic of our employees or learners using the Patient or Visitor Conduct submission form.
- For emergency visitor-initiated point of care violence, personnel are encouraged to contact Campus Security.
- Visiting hours or other access can be restricted.
- Nurse Manager/Shift Supervisor and Campus Security staff are encouraged to:
  - Collaborate with the involved staff prior to executing the decision to remove a visitor from the institution.



## 25. Termination or Dismissal of Patient Care Policy

### Scope

Applies to personnel when determining whether or not to terminate a patient's care at the *Institution* or dismiss a patient from a specific provider or unit.

### Purpose

- To ensure whether or not the termination of a treating relationship from the *Institution* is appropriate or to ensure that a dismissal of a treating relationship from a provider or unit is appropriate.
- To ensure that the decision meets compliance with Emergency Medical Treatment and Labor Act (EMTALA).

### Policy

- The *Institution* retains the right to terminate a treating relationship with a patient. Individual providers retain the right to dismiss treating a patient from their care or unit.
  - Terminating a treating relationship cannot occur at an individual, unit or department level. When a patient's care is terminated, it is enforced across all institution sites and platforms. Termination of care generally occurs because of patient misconduct. If the behavior of a patient is egregious enough to warrant termination, it must be enforced across all sites. Termination of care can only be reversed after a patient has gone through a formal appeals process.
  - Dismissals are not considered termination of care but are scheduling stops for a specific individual provider or a specific unit. Dismissals generally occur because of noncompliance with treatment recommendations or a consistent failure to keep appointments. Dismissals can be reversed at any time, but only by permission of the provider or unit that enforced the dismissal.
- Reasonable efforts must be made in order to resolve issues with a patient before the treating relationship is terminated or dismissed to prevent potential abandonment.
- The promptness and seriousness of the action taken by the institution must depend upon the acute medical or surgical attention needed and the patient's behavior.
- A communication with the patient must occur when a problem or situation arises that will result in an enterprise termination of care or a provider/unit dismissal unless the



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situation is extraordinary and warrants termination of care or dismissal without a communication.

- Examples include:
  - Threatening or violent behavior directed at staff, physicians, other healthcare providers, or patients
  - Lying or deceptive behavior
  - Severe discriminatory or abusive behaviors
- Patient behaviors must be documented before termination of patient care can occur unless the behavior is severe enough to warrant immediate termination. In this case, documentation occurs after the termination of care.
- A physician or unit has the right to dismiss a patient from a practice area. If the patient requires acute medical or surgical attention, the institution must give the patient sufficient written notice (30 days in most circumstances), to allow the patient to procure other medical attention if he or she desires.
  - Some circumstances can require immediate withdrawal or more than 30 days.
- All sites must abide by the termination of care once the notice is received by the patient and posted within the patient's record.
- Patients whose care has been terminated can present for an emergency and must be provided treatment following Emergency Medical Treatment and Labor Act (EMTALA) Policy.

## Definitions

**Disruptive Behavior:** Multiple complaints, emails, phone calls and portal messages for concerns that have already been addressed. Disruptive behavior that continues can result in termination of care across all sites.

**Dismissal:** Discontinuation of patient care within a specific practice area or by a specific provider. Dismissals can be overturned at the discretion of the provider or unit.

**Personnel:** For the purpose of this document, the term personnel include individuals who are compensated for services performed for the institution whether or not they are paid by the institution.

**Termination of Care:** Permanent discontinuation of patient care across all sites as a result of patient behavior that has already been addressed and continues to be problematic in one or more units. Termination of patient care cannot be overturned at the discretion of a provider or unit. A patient who has had his/her care terminated must go through an appeals process in order to reverse the termination of care.





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**Violent Behaviors:** Verbal threats toward others and self; aggression toward objects, others, self; unwanted sexual touch; possession of contraband or weapons, profanity, and vulgar language after verbal warning to stop.

## References

Emergency Medical Treatment and Labor Act (EMTALA) - 42 U.S.C. § 1395dd & 42 C.F.R. § 489



## 26. Patient/Family/Visitor/Research Participant Code of Conduct: Responding to Disrespectful, Discriminatory, Disruptive, or Harassing Behaviors

### Scope

This policy applies to all clinical, non-clinical, and research areas of the institution.

### Policy

1. Patients, family, visitors, and research participants are expected to speak and behave in a respectful manner to all members of the institution community (i.e., workforce members, other patients, family members, and other visitors).

2. Patients, family, visitors, or research participants who engage in disrespectful, discriminatory, disruptive, or harassing behavior(s) and/or language (oral or written) directed at any member of the institution community (i.e., workforce members, other patients, family members, and other visitors) will not be tolerated. Examples of such behavior include, but are not limited to:

- Derogatory or offensive remarks about a workforce member's race, color, accent/language, national origin, ethnicity, religious creed, sex, gender, gender identity or expression, genetic information, sexual orientation, age, disability, veteran or active military status, or immigration status.
- Requests or demands for a specific type of workforce member based on the workforce member's characteristics listed above.
- Yelling or swearing
  - Consider the context in which yelling/swearing occurs, i.e., is it directed at staff, egregiously inappropriate, or a patient is swearing because they are in pain (cultural context matters here).
- Verbal threats or threatening gestures
- Physical assault or attempted assault
- Spitting, throwing objects, or other violent behaviors
- Sexual remarks, gestures, or inappropriate physical contact without qualification
- Unwanted communication with a clinician or other staff member not related to clinical care



- Refusal to follow unit or practice-specific policies or guidelines that guide the patient's care and treatment
- Disrupting another patient's care or experience.

3. Patients, family, visitors, or research participants who make discriminatory requests or demands for a specific type of clinician or workforce member based on a characteristic(s) (as listed above) of the clinician/workforce member will not be accommodated.

- a. View all requests with the lens of trauma-informed care to determine the appropriateness of the request (Appendix A).
- b. Non-discriminatory requests for a specific type of clinician or workforce member may be considered based on, including but not limited to, the following characteristics:
  - i. sex (e.g., female patient requests a female clinician);
  - ii. language (e.g., Limited English Proficient patient requests a clinician who speaks their native language);
  - iii. members of historically marginalized groups who have experienced health disparities (e.g., a Black patient requests a Black clinician);
- c. The ability to accommodate a non-discriminatory request is influenced by many factors including clinician availability. If unable to accommodate a nondiscriminatory request, consider providing a chaperone, engaging a medical interpreter, etc., as a way to ensure quality and equity of care.

4. Use the SAFER Model (see below) to address unacceptable patient/family/visitor comments and/or behavior(s).

- a. Consider the need to ensure the safety of workforce members prior to implementing the model.
- b. Workforce members who witness or hear such comments or behavior targeted at another workforce member will assist in addressing the situation and provide support to the targeted individual.
- c. A team approach (i.e., colleagues and/or leadership) will be used to address the situation and to assist with setting behavioral expectations for the patient/family/visitor.
- d. Emergency care must be provided under the Emergency Medical Treatment and Labor Act (EMTALA).
- e. If a family member/visitor does not adhere to behavioral expectations set by the staff, they will need to leave.



- f. If a patient does not adhere to behavioral expectations set by the staff and they do not need further treatment, they may be discharged.
- g. If a patient does not adhere to behavioral expectations set by the staff and they need further treatment, staff should escalate the situation up the chain of command to senior leadership including the chief medical officer, chief nursing officer, and office of General Counsel for direction and decision-making regarding discharge.

5. Documentation and hand-off communication between areas is important to address unacceptable patient/family/visitor/research participant behavior. It is strongly recommended that an acute care plan be developed to ensure communication of any issues across encounters/admissions.

## Definitions:

**Workforce Member:** clinicians, employees, researchers, volunteers, vendors, and students.

**The Institution Community:** workforce members, patients, family members, visitors, and research participants.

**Workforce Member Characteristics:** race, color, accent/language, national origin, ethnicity, religious creed, sex, gender, gender identity or expression, genetic information, sexual orientation, age, disability, veteran or active military status, or immigration status.

**Care Team:** clinicians and non-clinicians who care for and/or interact with patients, family members, and visitors.

**Targeted Workforce Member:** the individual who is the victim of the discriminatory behavior which is the subject of this policy.

**Bystander:** any workforce member who witnesses or hears (including being confided in by a targeted workforce member) a patient/family/visitor/research participant's discriminatory/ disruptive/ harassing/ disrespectful comments and/or behavior which is the subject of this policy.

## Procedure

1. When a patient, family member, visitor, or research participant speaks or behaves in a disrespectful, disruptive, discriminatory, or harassing manner directed at any member of the institution community, any workforce member (including the targeted workforce member, bystander, and manager/leader) who experiences, witnesses, or hears about this inappropriate behavior can use the below framework to address the behavior.





2. Ensuring the safety of workforce members while providing care is an important consideration when addressing patient/family/visitor unacceptable behaviors. Workforce members should consider the context in which the behavior is occurring and use judgment about how best to respond, including implementation of the following model.

## SAFER Model

**S -**

**Speak up:** address the situation with the patient/family/visitor.

**Support** the targeted workforce member during and after the interaction using a team approach:

- inform and request support from the appropriate manager/ supervisor/ director/ attending/ chief, a co-worker, or other hospital resource such as the Employee Assistance Program.
- manager/supervisor/director or attending/chief will intervene on the workforce member(s) behalf as necessary.
- both peers and others should support the affected workforce member after the interaction, acknowledging the patient's behavior and its potential impact on the workforce member.
- a change in clinical/work assignment may be offered if available and desired by the workforce member.
- hospital resources such as the Employee Assistance Program (EAP), Spiritual Care, Social Services, and Police and Security are available to help support the targeted workforce member and/or assist with responding to the inappropriate behavior.

**A -**

**Assess** the situation and circumstances in which the inappropriate comment or behavior has occurred:

- if the patient is not physiologically/psychologically stable, clinicians should provide needed care.
- if the patient has altered mental status or disability, this model may not be appropriate.
- if the workforce member(s) receives a specific discriminatory request or demand for a specific type of workforce member, acknowledge and clarify the reason for the request/demand.

**Address** the behavior:

- ask for assistance from a co-worker/peer, colleague, and/or nurse or physician leader.



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- for discriminatory request/demand, explain the hospital's:
  - commitment to a non-discriminatory environment.
  - reliance on our talented workforce members to provide the highest quality health care and services.
  - assurance that the workforce member is qualified and best positioned to provide the needed care/service to the patient/family.
- contact Police and Security when the patient's/family members'/visitor's behavior is disruptive or violent or creates an unsafe situation.
- if unable to resolve at the local level and the patient continues to require treatment, the situation may be escalated to senior leadership.
  - Consider discharge as an option.

## **Access** resources as needed:

- unit-based such as a colleague, nurse, or physician leader.
- hospital resources such as the Employee Assistance Program (EAP), Spiritual Care, Social Services, and Police and Security may be engaged as appropriate.

## **F -**

### **Focus** on the institution values:

- state the hospital's expectation regarding respectful treatment of all members of the institution community.
- review the Patient Rights and/or Visitor policies with the patient, family member, or visitor.
- review the Inpatient/Research Patient/Family/Visitor Code of Conduct handouts.

## **E -**

**Explain** behavioral expectations and set boundaries with the patient, family member, visitor, or research participant. Examples of actions that may be taken to set behavioral expectations for the patient and/or visitor include:

- explain that such comments and/or behaviors are inappropriate and will not be tolerated.
- discuss options with the patient/family/visitor and health care team.
- discuss implications of care/service refusal.
- provide clinical care and support to the patient/family/visitor while next actions are being determined.
- limit unacceptable conduct and set behavioral expectations.
- continue to refer to this policy as well as the Patient Rights and Visitor policies.
- consider discharge.

## **R -**



**Report** the interaction and the plan including:

- the care team and/or other workforce members.
- document in the patient's record.
- complete a Safety Report. The manager will work with the targeted workforce member or bystander to file a Safety Report as necessary.
- debrief with care team/colleagues.

**Reinforce** behavioral expectations.

- if the patient, family, visitor, or research participant affirms that they understand the rationale and need for the comments and/or behavior to stop and indicates an ability to act appropriately, then clinical care and other interactions will continue, with reminders regarding the requirement for respectful behavior as needed.

### **3. Patients Unable to Be Held Accountable for Their Behavior**

If the patient has temporary or permanent, limited or impaired capacity due to intoxication, infection or other medical condition(s) (e.g., delirium, dementia) or disability (e.g., Tourette Syndrome), the patient may not be able to be held accountable for their disrespectful comments or behaviors. Provide care and re-evaluate the patient's behavior once the patient regains capacity (if appropriate). "Clustering care" may be an intervention to minimize exposure to the patient's inappropriate behavior.

### **4. Support for Targeted Workforce Member(s)**

In all situations, support will be provided to the targeted workforce member, acknowledging the patient's behavior and its potential impact on the workforce member.

- A change in clinical/work assignment may be offered if available and desired by the workforce member.
- Hospital resources such as the Employee Assistance Program (EAP), Spiritual Care, Social Services, and Police and Security are available to help support the targeted workforce member and/or assist with responding to the inappropriate behavior.

## **Appendix A: Trauma-Informed Care**

### **What is trauma?**

The Substance Abuse and Mental Health Services Administration (SAMHSA) states that "individual trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that



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has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being."

### **What is a trauma-informed approach to care?**

Trauma-informed approaches to care shift the focus from "What's wrong with you?" to "What

happened to you?"

SAMHSA's description of a trauma-informed approach states that, "A program, organization, or system that is trauma-informed:

1. Realizes the widespread impact of trauma and understands potential paths for recovery;
2. Recognizes the signs and symptoms of trauma in clients, families, staff, and others involved with the system;
3. Responds by fully integrating knowledge about trauma into policies, procedures, and practices; and
4. Seeks to actively resist re-traumatization."

### **Six key principles that can help guide care include:**

- Safety;
- Trustworthiness and transparency;
- Peer support;
- Collaboration and mutuality;
- Empowerment, voice and choice; and
- Cultural, historical, and gender issues.

Definitions of these key principles and other information can be found at:

<https://www.samhsa.gov/nctic/trauma-interventions>

Additional resources:

Center for Health Care Strategies

[http://www.chcs.org/media/ATC\\_whitepaper\\_040616.pdf](http://www.chcs.org/media/ATC_whitepaper_040616.pdf)

National Council for Mental Wellbeing

<https://www.thenationalcouncil.org/topics/trauma-informed-care/>





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Policies on

# Patient Care



## 27. Care of Non-Binary/Transgender Patients and Guests

### Purpose

The institution is dedicated to providing superior quality personal care to all patients. Along with clinical expertise, we want to provide an exceptional patient and family experience. We encourage our patients to be full participants in their healthcare. An understanding of the rights and responsibilities will greatly enhance the partnership between the patient, family, and the rest of the health care team.

When appropriate, these rights will be extended to the patient's guardian, next of kin, or legally authorized representative. A Patient Information Guide is given to each patient at the time of admission. Additionally, Patient Rights information is posted throughout the organization and is available through the institution's website.

The institution recognizes that the Lesbian, Gay, Bisexual, and Transgender (LGBT) population may have specific needs as it relates to their rights, responsibilities, and care. This policy attempts to outline these details in an effort to support our patients and provide our team with the tools necessary to provide quality care.

### Definitions

**LGBT** - The acronym LGBT stands for lesbian, gay, bisexual, and transgender and is an umbrella term that generally refers to a group of people who are diverse with regard to their gender identity and sexual orientation (also, LGBTQ and LGBT community).

**Sexual Orientation** - The preferred term used when referring to an individual's physical and/or emotional attraction to the same and/or opposite gender. Sexual orientation describes how people locate themselves on the spectrum of attraction. Someone who feels a significant attraction to both sexes is said to be bisexual. A man entirely or primarily attracted to men is said to be gay, and a woman entirely or primarily attracted to women is said to be lesbian. It is important to note that sexual orientation, which describes attraction, is distinct from gender identity or gender expression.

**Gender Identity** - One's basic sense of being male, female, non-binary or other gender (for example, transgender or gender queer). Gender identity can be congruent or incongruent with one's sex assigned at birth based on the appearance of external genitalia.



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**Gender Expression** - Characteristics in appearance, personality, and behavior, culturally defined as masculine or feminine.

**Legal Sex** – A person’s sex marker based upon their State or Federal identification, either their Driver’s License, Passport, or Birth Certificate.

**Non-binary** – People whose gender is not defined within the gender binary. Their gender goes beyond identifying as either a man or woman. They may identify as both male or female or neither male nor female. They may be gender fluid, their gender not having permanency. Some examples of terms commonly used by non-binary people are genderqueer, neutrosis, agender, gender fluid, bigender, or third gender.

**Transgender**- People whose gender identity or gender expression differ from their birth sex or prevailing ideas of masculinity and femininity are often called transgender.

Note: for additional definitions and information, see the resources listed under References.

## Policy

At the institution, we seek to provide an exceptional experience to every patient and family member. Unique needs of the Non-binary/Transgender population include:

### Environment of Care

The institution is committed to providing a safe environment where quality care can be delivered. For members of the non-binary/transgender population, hospital staff will seek to provide inpatient rooms that meet the gender identification of the patient. This may include a semi-private room or a private room depending on occupancy of the organization and the unique needs of the patient.

The institution provides private restrooms that are unisex throughout the organization. They are marked as unisex and can be accessed by anyone. Public restrooms that have more than one toilet are marked by gender and the institution supports the use of these facilities according to the gender identification of the person using it.

### Information Management

The institution honors patient identity in our Electronic Health Record (EHR) by collecting both legal sex and gender identity. Patients who have signed up to access the patient portal



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can update their legal sex or gender identity at any time. To update their legal sex they must provide the following documents: Driver's license, State ID, or Passport at their next in-person visit; however, updating their gender identity in the EHR does not require supporting legal documentation. For the purpose of meeting requirements of quality related to care, the EHR will contain documentation of anatomy and the necessary evaluation and standards of care for CMS and other insurers. All care providers will document in the record specific to the needs of the patient as well as the presenting anatomy. Registering patients is an important function of the check in process, as it will document the gender based on what is shared by the person at point of registration.

## Provision of Care

The institution is committed to diversity and inclusion in the community and our patient population. The institution provides ongoing education and training about ways to ensure that the unique needs of all patients are understood and met.

## Revisions

The institution reserves the right to alter, amend, modify, or eliminate this policy at any time without prior written notice.

## References

The LGBT Foundation: <https://lgbt.foundation/>

The Joint Commission LGBT Field Guide – Advancing Effective Communication, Cultural Competence, and Patient- and Family-Centered Care for the Lesbian, Gay, Bisexual and Transgender (LGBT) Community: [https://www.jointcommission.org/-/media/tic/documents/resources/patient-safety-topics/health-equity/lgbtfieldguide\\_web\\_linked\\_verpdf.pdf](https://www.jointcommission.org/-/media/tic/documents/resources/patient-safety-topics/health-equity/lgbtfieldguide_web_linked_verpdf.pdf)

GLMA Health Professionals Advancing LGBTQ Equality: <https://www.glma.org/>





## 28. Admission Nondiscrimination Policy

### Notice of Nondiscrimination

This *institution* complies with applicable Federal civil rights laws and does not discriminate on the basis of race, color, national origin, age, disability, or sex. The *institution* does not exclude people or treat them differently because of race, color, national origin, age, disability, or sex.

### Policy

It is the policy of the *institution* and all subsidiary entities to provide quality healthcare to all persons. Admission and treatment decisions will be based solely on the medical needs of the patient and the capacity and capabilities of the facility to provide the medical care and treatment required. Admission and treatment will not be denied on the basis of ethnicity, color, gender, sex, race, national origin, religion, disability, age, HIV status, veteran or military status, source of payment for services or any other basis prohibited by federal, state, or local law. Patients will be treated in a manner consistent with their gender identity. Approved sites must agree not to discriminate in the provision of services to an individual based on: the individual's inability to pay; whether payment for those services would be made under Medicare or Medicaid; and the individual's race, color, sex, national origin, disability, religion, age, sexual orientation, or gender identity.

The *institution*:

- Provides free aids and services to people with disabilities to communicate effectively with us, such as:
  - Qualified sign language interpreters
  - Written information in other formats (large print, audio, accessible electronic formats, other formats)
- Provides free language services to people whose primary language is not English, such as:
  - Qualified interpreters
  - Information written in other languages



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If you believe that the *institution* has failed to provide these services or discriminated in another way on the basis of race, color, national origin, age, disability, or sex, you can file a grievance with: *Leadership/relevant entity*.

You can file a grievance in person or by mail, fax, or email. If you need help filing a grievance, the Director of *relevant entity* is available to help you.

You can also file a civil rights complaint with the U.S. Department of Health and Human Services electronically through the Office for Civil Rights Complaint Portal, available at <https://ocrportal.hhs.gov/ocr/portal/lobby.jsf>, or by mail or phone at:

U.S. Department of Health and Human Services  
200 Independence Avenue SW, Room 509F, HHH Building  
Washington, DC 20201

1-800-368-1019, 800-537-7697 (TDD)

Complaint forms are available at <http://www.hhs.gov/ocr/office/file/index.html>