

MAIMONIDES MEDICAL CENTER

CODE: HR-039 (Revised)

DATE: August 23, 2018

ORIGINALLY ISSUED: August 24, 1987

SUBJECT: ANTI-HARASSMENT AND ANTI-SEXUAL HARASSMENT

I. POLICY

Maimonides is committed to a work environment which is professional, promotes equal opportunity for all, and in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits unlawful discriminatory practices, including harassment and sexual harassment.

Harassment based on actual or perceived race, color, religion, creed, age, sex, national origin, alienage, citizenship status, marital status, partnership status, familial status, caregiver status, parental status, domestic violence victim status, military status, veteran status, genetic information, sexual orientation, gender, gender identity, gender expression, gender non-conformance or transgender status, physical or mental disability and any other classification protected by applicable federal, state or city law, is forbidden by law and will not be condoned by the Medical Center. Submission to unwanted conduct is not a condition of employment or participation in any training, volunteer, or residency training program. An individual subjected to such conduct may reject such conduct without fear of reprisal.

In order to ensure that the laws prohibiting harassment are enforced, this policy identifies the complaint procedures for reporting harassment and sexual harassment and outlines disciplinary penalties, which will be imposed where harassing conduct is proven. This policy is not limited to Medical Center employees. It prohibits harassment by non-employed medical staff, vendors, outside contractors and other persons interacting with Medical Center staff. It also covers behavior which occurs at Medical Center social events and activities. The Medical Center also will not tolerate the use of email or other electronic systems for inappropriate conduct or harassment.

Prohibition of Sexual Harassment

The Medical Center will not tolerate sexual harassment of any kind by any employee, co-worker, supervisor, manager, volunteer, student, intern, or third party, either in the Medical Center or at Medical Center social events and activities. Sexual harassment is not only a violation of Medical Center policy, it is also a violation of federal, state, and city law, and is specifically prohibited under Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, and the New York City Human Rights Law.

For purposes of this policy, sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, suggestive or lewd remarks or jokes, sexual posters, cartoons or drawings, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(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.

Sexual harassment may include a range of subtle and not-so-subtle behaviors, and may involve individuals of the same or different sex or gender. Sexual harassment can also occur between co-workers, or between supervisors and subordinate employees. Examples of sexual harassment may include, but are not limited to:

- Intentional or unintentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another individual's body, or poking another individual's body.
- Unwanted sexual advances, propositions, or other sexual comments, such as request for sexual favors accompanied by implied or overt threats concerning the victim's job performance evaluation, a promotion, or other job benefits or detriments (also known as "quid pro quo" sexual harassment).
- Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience which are sufficiently severe or pervasive to create a hostile work environment.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic.
- Physical assaults of a sexual nature, such as rape, sexual battery, molestations, or attempts to commit these assaults.

In the case of a house staff member, sexually harassing conduct shall also include, but not be limited to conduct which is made either explicitly or implicitly a term or condition of the individual's continuation in the Residency Training Program, advancement to the next level of the training program, a favorable evaluation or recommendation, assignments to rotations, night calls or other duties.

Prohibition of All Forms of Discriminatory Harassment

Discriminatory harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, discriminatory harassment is verbal, written, graphic, or physical conduct that denigrates or shows hostility or aversion toward an individual because of a protected trait or his/her inclusion in a protected group.

Harassing conduct includes preferential or derogatory treatment, epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; physical or verbal conduct relating to a protected trait; and written or graphic material that denigrates or shows

hostility toward an individual or group and that is placed on walls or elsewhere on the Medical Center's premises or circulated in the workplace, on Medical Center time or using Medical Center equipment.

II. RESPONSIBILITY

- A. The Vice President, Human Resources designee is responsible for
- 1) Investigation of all harassment and sexual harassment complaints
 - 2) Advising employees, supervisors and management personnel on issues related to this policy and the law, and on the Medical Center's procedure (HR 11);
 - 3) Conducting training programs for employees on sexual and other types of harassment and how to maintain a work place free of such harassment and ensuring those training programs comply with applicable law;
 - 4) Dissemination of this policy throughout the Medical Center, through new employees orientation, training, employee handouts, other Medical Center publications.
 - 5) Ensuring that the notice of employee rights and remedies required by NYC law is posted.

III. COMPLAINT PROCEDURE

A. Complaint

Any individual, including any Medical Center employee, volunteer, student, intern, or medical staff, who believes in good faith that he or she has been subjected to harassment, on any basis by anyone, including a third-party vendor or contractor, or believes they have witnessed such conduct, should immediately report the alleged harassment, in confidence, to the Vice President for Human Resources or designee, either verbally or in writing. If in writing, individuals should use the Medical Center complaint form attached to this policy.

If the individual is uncomfortable reporting the alleged harassment to the Vice President for Human Resources or designee, the individual may also report the alleged harassment directly to the Office of the President of the Medical Center.

Supervisors or managers who become aware of allegations of potential harassment or sexual harassment, or witness such conduct, **must immediately report the matter to Human Resources so that an investigation can be conducted.** Supervisors or managers shall not investigate these matters on their own, nor shall they make a determination that an incident need not be reported. It is critical that supervisors and managers report these incidents, since if a supervisor or manager becomes aware of potential harassment or sexual harassment, the Medical Center is officially on notice of such conduct. **Therefore, any supervisors or managers who fail to abide by this policy and fail to immediately**

report incidents of harassment or sexual harassment may be subject to discipline, up to and including discharge.

A complaint should be as detailed as possible, including the names of all individuals and any witnesses. Although there is no fixed reporting period for violations of this policy, the Medical Center encourages prompt reporting of complaints.

B. Investigation

Upon receipt of a complaint, the Medical Center will conduct an investigation as promptly as possible.

The investigation will include an interview with the individual making the complaint, if possible, and with any witnesses.

- C. When the investigation has been completed, the Medical Center will take whatever action is necessary to address the conduct that was reported, which may include discipline of any employee who has violated the policy. To the extent appropriate, the Medical Center will inform the individual who made the complaint of the conclusion of the investigation. If it is determined that inappropriate conduct has occurred, the Medical Center will act promptly to eliminate the offending conduct and, where appropriate will impose disciplinary action up to and including discharge. **Retaliation**

No one will be subject to, and the Medical Center prohibits, any form of discipline, reprisal, intimidation, or retaliation for engaging in protected activity under this policy. Protected activity includes:

- Filing in good faith a formal complaint of sexual harassment, or other harassment, either internally or with any anti-discrimination agency;
- Testifying or assisting in a proceeding involving harassment or sexual harassment as covered by this policy;
- Opposing harassment or sexual harassment by making a verbal or information complaint, or by notifying a supervisor or manager of harassment or sexual harassment;
- Complaining that another individual has been harassed or sexually harassed;
- Encouraging an individual to report harassment or sexual harassment.

Retaliation includes action taken against an individual due to the fact that the individual engaged in protected activity under this policy. Acts of retaliation may include, but are not limited to:

- Reprimanding the employee or giving a performance evaluation that is lower than it should be;
- Transferring the employee or volunteer to a less desirable shift, position, or department; or
- Engaging in verbal or physical abuse.

Any individual with a good faith basis that they are the subject of retaliation or have witnessed such conduct should consult the Medical Center's Anti-Retaliation Policy.

D. Confidentiality

The name of the individual making the report of harassment will be disclosed only to the extent necessary to conduct an investigation. However, absolute confidentiality cannot be guaranteed.

E. Discipline

All employees, at every level, up through and including the Medical Center's CEO, may be subject to disciplinary action, up to and including discharge for engaging in conduct which is deemed to violate this policy or for retaliation for any individual's pursuit of a harassment complaint.

F. Legal Protection

As explained above, harassment and sexual harassment are strictly prohibited by federal, state, and local law. These laws include, but are not limited to, Title VII of the Civil Rights Act of 1964, the New York State Human Rights Law, and the New York City Human Rights Law.

Individuals who believe they have been subject to harassment or sexual harassment under this policy may pursue their remedies in federal or state court, or may contact any of the following administrative agencies to file a complaint:

- Equal Employment Opportunity Commission
New York Office, 33 Whitehall Station
New York, NY 10004
Phone Number: (800) 669-4000
Fax Number: (212) 336-3790
Website: www.eeoc.gov
- New York State Division of Human Rights
55 Hanson Place, Suite 900
Brooklyn, NY 11217
Phone Number: (888) 392-3644
Fax Number: (718) 741-8322
Email: complaints@dhr.ny.gov
Website: dhr.ny.gov
- New York City Commission on Human Rights
22 Reade Street
New York, NY 10007
Phone Number: (718) 722-3131
Website: www.nyc.gov/humanrights

The Medical Center will not retaliate against any individual who files a complaint in federal or state court, or with any of the agencies listed above.

G. Training

All Medical Center employees and non-employed medical staff, including interns, shall be trained on this policy on an annual basis (or as otherwise required) in accordance with state and city law. This training will include examples of harassment and sexual harassment, the Medical Center's complaint procedure, and de-escalation techniques such as bystander intervention, among other topics.

IV. CONTROL

The Senior Vice President, Human Resources shall assure conformance with the policy and shall establish such other policies or procedures necessary to effectuate its intent. This includes, but is not limited to, dissemination of this policy during new employee/house staff orientation, training for all supervisory staff on the policy and how to maintain a work environment free of harassment, and communicating this policy to all non-employed medical staff, vendors, contractors and other business visitors interacting with Medical Center staff.

The President, or the Senior Vice President, Human Resources will notify the Legal Department of sexual harassment complaints for insurance reporting purposes.



Kenneth D. Gibbs
President and CEO

REFERENCE: ANTI HARASSMENT
INDEX: LEGAL DEPARTMENT
ATTACHMENTS: DISCRIMINATION AND HARASSMENT COMPLAINT FORM