

ENLOE MEDICAL CENTER

HARASSMENT POLICY

POLICY:

The Medical Center will not tolerate conduct which disrupts or interferes with others' work performance or which creates an intimidating, offensive, or hostile environment. This policy prohibits unlawful harassment in any form, including sexual harassment and harassment based on race, color, sex, sexual orientation, religion, national origin, ancestry, age, marital status, pregnancy, mental or physical disability, medical condition or any other characteristic protected by state or federal law. This policy applies to all employees (including supervisors and non-supervisory personnel), members of the medical staff, and other agents of the employer (i.e., volunteers, patients, visitors, vendors). Furthermore it prohibits unlawful harassment in any form, including verbal, physical and visual harassment (see attached information from the Department of Fair Employment and Housing). This is a zero tolerance policy. Individuals who violate this policy are subject to disciplinary action. While all forms of harassment are prohibited, it is the medical center's policy to emphasize that sexual harassment is specifically prohibited.

PROCEDURE:

1. REPORTING

- A. The full participation of all employees is essential to maintain a good working environment. The harassment policy requires compliance from all employees. An employee who believes he or she or another has been harassed, must immediately report the facts of the incident or incidents and the names of the individuals involved. The employee should report the circumstances to his or her department manager, or, in the alternative, directly to the Vice President or Director of Human Resources. Department managers or supervisors must immediately report any incidents of reported harassment to the Vice President or Director of Human Resources.
 - i. NOTE: Requests by an employee that the incident not be addressed, no course of action be taken regarding the event, or that it is reported as "information only" cannot be granted. This is a very serious concern and all reports must be investigated.

2. INVESTIGATION

- A. Reports Involving Employees or Other Agents of the Employer:
 - i. The Vice President or Director of Human Resources, in conjunction with the department manager where appropriate, will investigate all such claims and take appropriate corrective action.
- B. Reports Involving Medical Staff:
 - i. The Vice President or Director of Human Resources will inform the Chief Operating Officer, the Vice President responsible for the department, and the Medical Staff Chief of Staff. The Vice President, Human Resources, will complete a prompt investigation in conjunction with the department manager, where appropriate, and as deemed necessary, an individual designated by the Medical Staff Chief of Staff.

3. CONFIDENTIALITY

- A. To protect the privacy of all involved, all parties, including witnesses, will be instructed to maintain strict confidentiality throughout the investigation. The breach of that confidentiality by any party will be considered an independent violation and cause for discipline, regardless of the merits of the underlying harassment charge.
- B. In order to complete a thorough investigation, it may be necessary to identify all parties involved. Therefore, it may not be possible to grant requests for anonymity.

4. RETALIATION

- A. The individual who is accused of harassment will be advised of this policy and informed that the medical center will not tolerate any retaliation against or intimidation of any individual who has reported harassment or who has cooperated in connection with the medical center's investigation. Any allegations of retaliation will be considered an independent cause for discipline, regardless of the merits of the underlying harassment allegation.

5. RESOLUTION

- A. Reports involving employees or other agents of the employer:
 - i. At the conclusion of the investigation, the findings will be reported to the appropriate parties involved.
 - ii. If the findings show a violation of policy did occur, the medical center is responsible for taking immediate and appropriate action under the circumstances.
 - iii. For employees, disciplinary action may include warnings, reprimands, suspensions, and/or discharge based upon the severity of the findings. This will be determined with the sole and absolute discretion of the medical center.
- B. Reports involving medical staff:
 - i. At the conclusion of the investigation, the findings will be reported to the Medical Staff Chief of Staff and to the appropriate parties involved.
 - ii. If the findings show a violation of policy by a member of the medical staff did occur, the Medical Staff is responsible for taking immediate and appropriate action to remedy the violation of policy.
 - iii. As allowed according to the Medical Staff bylaws, appropriate corrective actions include reprimands up to and including termination of medical staff privileges or membership as warranted by the findings.
 - iv. Action by the Medical Staff is subject to review by the Medical Center Board of Trustees according to procedures contained in the Medical Staff bylaws.

B-III-20.1

REVIEW AND APPROVALS:

Original Date: 12/96	
Revised: 05/99, 03/01, 7/01, 12/04, 1/05	
Current review/revision by: Director, Human Resources 12/04, 1/05	
Approved by:	
Marcia Nelson	3/3/05
CHIEF OF MEDICAL STAFF	DATE
Carol Linscheid	3/4/05
VICE PRESIDENT, HUMAN RESOURCES	DATE

Addendum

SEXUAL HARASSMENT

The Facts About Sexual Harassment

The Fair Employment and Housing Act (FEHA) defines sexual harassment as harassment based on sex or of a sexual nature; gender harassment; and harassment based on pregnancy, childbirth, or related medical conditions. The definition of sexual harassment includes many forms of offensive behavior, including harassment of a person of the same gender as the harasser. The following is a partial list of types of sexual harassment:

- Unwanted sexual advances
- Offering employment benefits in exchange for sexual favors
- Actual or threatened retaliation
- Leering; making sexual gestures; or displaying sexually suggestive objects, pictures, cartoons, or posters
- Making or using derogatory comments, epithets, slurs, or jokes
- Sexual comments including graphic comments about an individual's body; sexually degrading words used to describe an individual; or suggestive or obscene letters, notes, or invitations
- Physical touching or assault, as well as impeding or blocking movements

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- Take all reasonable steps to prevent discrimination and harassment from occurring. If harassment does occur, take effective action to stop any further harassment and to correct any effects of the harassment.
- Develop and implement a sexual harassment prevention policy with a procedure for employees to make complaints and for the employer to investigate complaints. Policies should include provisions to:
 - Fully inform the complainant of his/her rights and any obligations to secure those rights.
 - Fully and effectively investigate. The investigation must be thorough, objective, and complete. Anyone with information regarding the matter should be interviewed. A determination must be made and the results communicated to the complainant, to the alleged harasser and, as appropriate, to all others directly concerned.
 - Take prompt and effective corrective action if the harassment allegations are proven. The employer must take appropriate action to stop the harassment and ensure it will not continue the employer must also communicate to the complainant that action has been taken to stop the harassment from recurring. Finally, appropriate steps must be taken to remedy the complainant's damages, if any.
- Post the Department of Fair Employment and Housing (DFEH) employment poster (DFEH 162) in the workplace (available through the DFEH toll-free number [800] 884-1684 or web site).
- Distribute an information sheet on sexual harassment to all employees. An employer may either distribute this pamphlet (DFEH 185) or develop an equivalent document that meets the requirements of Government Code section 12950(b). This pamphlet may be duplicated in any quantity. **However, this pamphlet is not to be used in place of a sexual harassment prevention policy, which all employers are required to have.**
- All employees should be made aware of the seriousness of violations of the sexual harassment policy. Supervisory personnel should be educated about their specific responsibilities. All employees must be cautioned against using peer pressure to discourage harassment victims from complaining.
- A program to eliminate sexual harassment from the workplace is not only required by law, but is the most practical way for an employer to avoid or limit liability if harassment should occur despite preventive efforts.

Employers' Obligations

All employers must take the following actions against harassment:

Employer Liability

All employers, regardless of the number of employees, are covered by the harassment section of the FEHA. Employers are generally liable for harassment by their supervisors or agents. Harassers, including both supervisory and non-supervisory personnel, may be held personally liable for harassing an employee or coworker or for aiding and abetting harassment.

Additionally, the law requires employers to take “all reasonable steps to prevent harassment from occurring.” If an employer has failed to take such preventive measures, that employer can be held liable for the harassment. A victim may be entitled to damages, even though no employment opportunity has been denied and there is no actual loss of pay or benefits.

In addition, if an employer knows or should have known that a non-employee (e.g. client or customer) has sexually harassed an employee, applicant, or person providing services for the employer and fails to take immediate and appropriate corrective action, the employer may be held liable for the actions of the non-employee.

An employer might avoid liability if

- The harasser is not in a position of authority, such as a lead, supervisor, manager or agent
- The employer had no knowledge of the harassment
- There was a program to prevent harassment; and
- Once aware of any harassment, the employer took immediate and appropriate corrective action to stop the harassment.

Filing a Complaint

Employees or job applicants who believe that they have been sexually harassed may file a complaint of discrimination with DFEH within **one year** of the harassment.

DFEH serves as a neutral fact-finder and attempts to help the parties voluntarily resolve disputes. If DFEH finds sufficient evidence to establish discrimination occurred and settlement efforts fail, the Department may file a formal accusation. The accusation will lead to either a public hearing before the Fair Employment and Housing Commission or a lawsuit filed by DFEH on behalf of the complaining party.

If the Commission finds that discrimination has occurred, it can order remedies including:

- Fines or damages for emotional distress from each employer or person found to have violated the law
- Hiring or reinstatement
- Back pay or promotion
- Changes in the policies or practices of the involved employer

Employees can also pursue the matter through a private lawsuit

in civil court after a complaint has been filed with DFEH and a Right-to-Sue Notice has been issued.

For more information, see DFEH publication 159 “Guide for Complainants and Respondents.”

For more information, contact DFEH toll free at
(800) 884-1684
Sacramento area & out-of-state at (916) 227-0551
TTY number at (800) 700-2320
or visit our web site at www.dfeh.ca.gov

In accordance with the California Government Code and ADA requirements, this publication can be made available in Braille, large print, computer disk, or tape cassette as a disability-related reasonable accommodation for an individual with a disability. To discuss how to receive a copy of this publication in an alternative format, please contact DFEH at the numbers above.

State of California
Department of Fair Employment & Housing

The mission of the Department of Fair Employment and Housing is to protect the people of California from unlawful discrimination in employment, housing and public accommodations, and from the perpetration of acts of hate violence.