

DEPARTMENT: HUMAN RESOURCES – EMPLOYEE CONDUCT	POLICY DESCRIPTION: WORKPLACE HARASSMENT
APPROVED:	REVIEWED:
REPLACES: POLICY DATED 08/98	REVISED: 11/06/2017
ADOPTED:	PRIOR REFERENCE NUMBER: C-VI-04
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**PURPOSE:** To educate employees in the recognition and prevention of illegal workplace harassment and to provide an effective means of eliminating such harassment from the workplace.

**POLICY:**

Appalachian Regional Healthcare, Inc., (ARH) strictly forbids harassment of one employee by another employee, supervisor or third party based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, age (40 or older) or genetic information (including family medical history) or any other illegal basis under federal, state, or local law.

ARH prohibits harassment against individuals in retaliation for filing a harassment complaint, testifying, or participating in any way in an investigation or proceeding or opposing employment practices that they reasonably believe discriminate against individuals, in violation of state or federal laws.

ARH will aggressively investigate any allegation of harassment.

ARH will strive to maintain a working environment free of harassment by managers, co-workers or third parties.

**DEFINITIONS:**

1. Workplace Harassment – unwelcome conduct that is based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, age (40 or older) or genetic information (including family medical history). Harassment becomes unlawful where 1.) enduring the offensive conduct becomes a condition of continued employment, or 2.) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Harassment need not be intentional. The relevant determination is whether a reasonable person could have interpreted the alleged behavior to be harassment.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

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- a) Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.
  - b) Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks or threats, requests for any types of sexual favor (this may include repeated, unwelcome requests for dates), and verbal abuse or “kidding” that is sexual in nature and unwelcome.
  - c) Nonverbal sexual harassment includes the distribution, display or discussion of any written or graphic material including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex, suggestive or insulting sounds, leering, staring, whistling, obscene gestures, contents in letters and notes, facsimiles, e-mail, photos, text messages, tweets and internet postings, or other forms of communication that is sexual in nature and offensive to the affected employee.
  - d) Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing and fondling and forced sexual assault.
2. Third parties – Individuals who are not employed by ARH, but who have business interactions with ARH employees. Such individuals include, but are not limited to:
- a) Patients
  - b) Vendors
  - c) Contractors
  - d) Volunteers

**PROCEDURE:**

I. Harassment Complaint Procedure

- A. All employees, whether or not they are victim, must report incidents of workplace harassment as soon as possible after the incident occurs.
- B. Employees and applicants for employment seeking to remedy workplace harassment shall file a complaint with his/her manager, the Community Chief Regulatory Affairs Officer (CCRAO), the local facility Human

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Resources Representative, the Community Chief Executive Officer or the System Human Resources Department, or designee. **Under no circumstances shall the individual alleging harassment be required to file a complaint with the alleged harasser.**

- C. Managers who become aware of harassment which may violate the policy, regardless of whether an employee has complained about it, must immediately report the matter to the facility Human Resources Representative, the Community Chief Regulatory Affairs Officer (CCRAO), the Community Chief Executive Officer (CCEO) or the Vice President of Human Resources.
- D. Employees and third parties who make complaints of workplace harassment, or provide information relative to such complaints, will be protected against retaliation. If retaliation occurs, the employee(s) should report the retaliation through the harassment compliant procedure

## II. Responsibilities of ARH Management

It is the responsibility of every manager, and department head to ensure that this policy is strictly enforced. Every manager and department head is responsible for ensuring that each employee under his or her supervision is made aware of the terms of this policy. It is further the responsibility of all management to ensure that any work areas under their responsibility are free from conduct that causes, or reasonably can be considered to cause, an intimidating, disruptive or offensive work environment.

## III. Responsibilities of ARH Employees

- A. It is the responsibility of all employees to conduct themselves in a manner that ensures that other employees and third parties are able to work in an atmosphere free from harassment. It is the responsibility of all employees to comply with the policy in all respects and at all times.
- B. It is further the responsibility of all employees, including management, to bring to the attention of ARH management any evidence of harassment. Employees must promptly report any act or event that is believed to be a violation of this policy (or that may be a violation of this policy) so that appropriate action can be taken. Failure to report incidents in accordance

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with this policy may lead to disciplinary action up to and including termination of employment.

#### IV. Investigation

- A. All complaints will be investigated in a thorough and expeditious manner by the Community Chief Regulatory Affairs Officer, the facility Human Resources manager and the Office of Legal Affairs. The duty to conduct a harassment investigation arises when an employee or non-employee files a formal complaint of harassment or there is knowledge of possible harassment in the workplace, regardless of the source of information.
- B. A thorough record must be maintained for any investigation of complaints of harassment. The person receiving the complaint may perform the documentation. ARH encourages the complainant to provide a written summary of his or her harassment claim or execute a written summary prepared by the person receiving the claim. *See Appendix A – Complaint Form.*
- C. Any request for a written summary of the claim must be made in a non-threatening manner. Therefore, to allay any concerns on the part of the employee the following should be explained.
  1. the preparation of a written summary of the complaint is a standard procedure in all harassment investigations investigated by ARH;
  2. the employee can amend, clarify, or supplement the initial complaint at any time; and
  3. a written document will make the entire investigation smoother and easier for all concerned as it establishes the initial parameters of the investigation.
- D. At a minimum, the following questions should be asked in the investigation of any claim of harassment:
  1. Who harassed you?
  2. What did he/she do?
  3. When did he/she do it?
  4. Where did it happen?

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5. Were there any witnesses?
6. Who did you tell?
7. Who else has been harassed?
8. What did you do in response?

#### V. Confidentiality

ARH understands that harassment complaints, especially complaints of sexual harassment, are difficult to make and receive. ARH will treat all information regarding any harassment complaint as highly confidential. Any information regarding the complaint or investigation will be released on a need to know basis only.

#### VI. Violations

- A. Any employee engaging in unwelcome harassing behavior, even if it does not rise to the level of illegal harassment under the law, may be subject to disciplinary action, including possible termination of employment.
- B. Managers who allow workplace harassment to continue, fail to report incidents of harassment in accordance with this policy, or fail to take appropriate action upon becoming aware of the harassment may be subject to disciplinary action, including possible termination of employment.
- C. Employees who fail to report incidents of harassment in accordance with this policy may be subject to disciplinary action, including possible termination of employment.
- D. Employees who engage in retaliation against an employee for filing a harassment complaint, testifying, or participating in any way in an investigation may be subject to disciplinary action, including possible termination of employment.

REFERENCES: 42 USCS §§ 2000e et seq; Ky. Rev. Stat. Ann. § 344.040 et seq.,