



# Stanford MEDICINE

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## Partners

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Director of Human Resources  
Area **Human Resources**

## Harassment Discrimination and Retaliation Prevention, HR-24

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### I. PURPOSE

This purpose of this policy is to define harassment, discrimination, abusive conduct and retaliation, and explain the procedures for reporting and responding to those behaviors. This policy applies to all persons involved in the operations of Stanford Medicine Partners ("SMP") including, supervisors, managers, and co-workers. This policy also applies to SMP- affiliated providers, vendors, customers, patients, family members, independent contractors, unpaid interns, volunteers, persons providing services pursuant to a contract and other persons with whom SMP employees come into contact while working or representing SMP.

### II. POLICY

It is the policy of SMP to respect each individual and their individual differences. In keeping with that principle, we are committed to an environment which is free of harassment, discrimination, retaliation, and disrespectful, abusive or other unprofessional conduct based on any protected characteristic as defined in this policy. SMP also prohibits discrimination, harassment, disrespectful, abusive or unprofessional conduct based on the perception that anyone has any of the characteristics or is associated with a person who has or is perceived as having any of the characteristics as defined.

Harassment is unwelcome conduct that is based on a protected class. Harassment becomes unlawful when it unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. Such behavior is in violation of policy and will not be tolerated. While all forms of harassment are prohibited, this policy also separately emphasizes the prohibition against sexual harassment. To that end, SMP will comply with the State-mandated requirement (Section 12950.1 AB 1825) that all supervisors, managers, directors and above receive two (2) hours of sexual harassment

training every two (2) years, including training on abusive behavior.

SMP is committed to compliance with all applicable laws providing equal employment opportunities. This commitment applies to all persons involved in SMP operations. SMP does not discriminate based on the actual or perceived basis of any legally protected characteristic as defined below. SMP prohibits unlawful discrimination against any job applicant, employee or unpaid intern by any employee of SMP, including supervisors and co-workers.

SMP prohibits retaliation against individuals who raise complaints of harassment, discrimination or retaliation, or who participate in workplace investigations.

All employees and supervisors should be aware that SMP will take appropriate action to prevent and correct any behavior which constitutes harassment, sexual harassment as defined, discrimination, or retaliation. Individuals who are found to have engaged in such behavior are subject to discipline up to and including termination.

Intentionally submitting a complaint of sexual or other harassment, discrimination, or retaliation which contains material false facts may be grounds for disciplinary action, but no disciplinary action will be taken against an employee who submits a complaint which, although accurate, does not qualify as harassment, discrimination, or retaliation under the definitions contained in this policy. Further, a finding that a complaint is not supported by the evidence, or is inconclusive, is not in itself evidence that material false facts were made as part of the complaint.

### III. DEFINITIONS

- A. **Legally-Protected Characteristic:** SMP is committed to providing a work environment free of harassment, discrimination, retaliation and disrespectful or other professional conduct based on:

Ancestry, age (40 and above), color, physical and mental disability , (including HIV and AIDS), genetic information, gender, gender identity (including transition status), gender expression, marital status, registered domestic partner status, medical condition (including cancer, or a record or history of cancer), military or veteran status, national origin (including language use restrictions and possession of a driver's license issued under Vehicle Code section 12801.9), race, religion (including religious dress and grooming practices), sex (including pregnancy, childbirth, breastfeeding, or related medical conditions), citizenship, primary language, immigration status, and sexual orientation, the perception of any of the above, or any other basis protected by federal, state, or local law or ordinance, or regulation. SMP also prohibits discrimination, harassment, disrespectful or unprofessional conduct based on the perception that anyone has any of those characteristics, or as a having had any of those characteristics.

- B. **Harassment:** Harassment is verbal, visual, or physical conduct that denigrates or shows hostility or aversion toward an individual because of any of the individual's actual or perceived legally-protected status, or that of the individual's relatives, friends, or associates and that:
1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
  2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or

3. Otherwise adversely affects an individual's employment opportunities.
  4. Harassing conduct includes, but not limited to, the following:
    - a. Epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to a legally-protected characteristic.
    - b. Written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of a legally-protected characteristic and that is placed on walls, bulletin boards, or elsewhere on SMP premises, or circulated in the workplace, posts or messages.
    - c. Retaliation for having reported or threatening to report harassment or for participating in an investigation into a complaint of harassment is prohibited by law and SMP policy.
    - d. Communication via electronic media of any type that includes any conduct that is prohibited by state and/or federal law or by SMP policy.
- C. **Harassment (Sexual):** The determination of what constitutes sexual harassment will vary with the particular circumstances. Sexual harassment does not need to be motivated by sexual desire to be unlawful or to violate this policy. For example, hostile acts toward an individual because of gender, gender identity, gender expression, or the perception of the individual's gender, gender identity or gender expression, can amount to sexual harassment, regardless of whether the treatment is motivated by sexual desire. However, in general, unwelcome sexual advances, requests for sexual favors and other verbal, visual or physical conduct of a sexual nature may constitute sexual harassment when:
1. Submission to such conduct, made either directly or indirectly, is a term or condition of an individual's employment;
  2. Submission to such conduct or rejection of such conduct is used as a basis for employment decisions affecting an individual; or
  3. Such conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment. Examples of conduct which may create an offensive work environment include, but are not limited to, repeated and unwanted sexual advances or requests for sexual favors, displays of sexually suggestive objects, cartoons, web pages, screen savers, or pictures; suggestive or derogatory comments, insults, stereotypes or jokes; gestures or physical contact which are sexual in nature.
  4. Prohibited acts of sexual harassment can take a variety of forms ranging from subtle words or actions to physical assault. Sexual harassment can be male to female, female to male, female to female, or male to male. Examples of conduct which may create an offensive work environment include, but are not limited to:
    - a. Verbal conduct such as using epithets, derogatory comments, slurs, or making unwanted sexual advances, invitations, comments or noises;
    - b. Visual displays such as derogatory and/or sexually-oriented gestures, posters, photographs, drawings, cartoons, or web pages, or viewing or disseminating offensive material online;

- c. Unwelcome physical conduct such as touching, purposely blocking normal movement, or interfering with work directed at an individual because of the individual's sex (including gender expression or any other protected basis as defined above);
  - d. Insinuations, threats and demands of an individual to submit to sexual requests or sexual advances as a condition of continued employment, or to avoid some other adverse impact on the affected individual's job, and offers of job benefits in return for sexual favors. An adverse impact on an individual's job need not amount to a loss of the job or a demotion but could mean an action that adversely impacts the individual's evaluation, wages, advancement or promotion, assigned duties, shift or any other condition of employment or career development.
  - e. Communication via electronic media of any type that includes any conduct that is prohibited by state and/or federal law or by SMP policy.
- D. **Retaliation:** An adverse employment action taken against an individual for having reported or threatened to report harassment, discrimination, or retaliation, or for participating in an investigation into a complaint of harassment, discrimination, or retaliation. SMP will not retaliate against an employee for filing a complaint or participating in any workplace investigation and will not tolerate or permit retaliation by management, employees, or coworkers. Retaliation is prohibited by law and SMP policy.
- E. **Abusive conduct:** Conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive and unrelated to an employer's legitimate business interests. Abusive conduct may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act shall not constitute abusive conduct, unless especially severe and egregious.

## IV. PROCEDURE

- A. Supervisor and Management Responsibility - Supervisors and any management-level employees must refer all complaints involving harassment, discrimination, retaliation and/or other unprofessional conduct to SMP Human Resources so SMP can try to resolve the complaint promptly. Each supervisor/management-level employee has a responsibility to maintain the workplace free of any form of harassment, whether by a manager, supervisor, employee, or other person (including a patient or vendor).
- B. Discussing and Reporting Incidents or Problems
  - 1. Any employee who believes they have been the subject of discrimination, harassment, or retaliation, should bring their complaint to their supervisor, next level supervisor, a staff member of SMP Human Resources, or any member of SMP management. A full list of optional resources is listed in Section E below. SMP urges all individuals to immediately report any incidents of harassment, discrimination, retaliation or other prohibited conduct forbidden by this policy so that complaints can be quickly and fairly resolved. All known details of the incident or incidents, names of individuals involved, and names of any witnesses should be provided.

Individuals are encouraged to bring their complaint to the resource they feel most comfortable with.

2. All complaints of discrimination, harassment, or retaliation will be investigated promptly and in an impartial manner by a staff member of SMP Human Resources or other appropriate person designated by SMP Human Resources.
  3. Because the subject of sexual harassment may be particularly sensitive to some, employees are encouraged to choose the resource they feel most comfortable with in order to resolve the situation as quickly as possible. These discussions will be kept confidential to the extent possible and every reasonable effort shall be made to protect the privacy of all parties. However, please keep in mind that reporting of the situation and cooperation in the inquiry is important in order to prevent it in the future.
  4. In addition, employees may call a SMP Human Resources representative on an anonymous basis to explore, discuss or gain clarification about sexual harassment.
- C. Investigation - A SMP Human Resources representative or appropriate designee will promptly conduct a thorough and objective investigation of the alleged incident and will make a determination as to whether the harassment, discrimination, or retaliation occurred, whether it did not occur, or whether the evidence is inconclusive.
1. The investigation will include, but may not be limited to, a meeting or meetings with the individual accused of harassment ("individual accused"), the complaining employee ("complainant"), and potential witnesses, including other employees or non-employees who have been identified as having relevant information.
    - a. A SMP Human Resources representative or appropriate designee will meet with the individual accused and:
      - i. Inform the individual that an investigation is being conducted;
      - ii. Summarize the procedure that will be followed in conducting an investigation;
      - iii. Inform the individual that the SMP will treat the complaint and its investigation confidentially to the extent possible but cannot promise complete confidentiality. SMP's duty to investigate and take corrective action may require the disclosure of information to individuals with a need to know. When necessary to protect the integrity of the investigation, SMP may ask the individual accused to maintain confidentiality as well. Such confidentiality may be required in order to protect potential witnesses, preserve evidence and testimony, or to prevent a fabrication or cover-up.; and
      - iv. Advise the individual of the SMP's policy against harassment, discrimination and retaliation and inform him/her that any retaliation against or intimidation of any individual who has made a complaint or who has participated in an investigation of a harassment, discrimination or retaliation charge will not be tolerated.

2. The complainant will be informed:
  - a. That they should immediately contact any of the available resources identified below if they believe that any further violation of this policy against harassment, discrimination, or retaliation occurs; and
  - b. That SMP will treat the complaint and its investigation confidentially to the extent possible but cannot promise complete confidentiality. SMP's duty to investigate and take corrective action may require the disclosure of information to individuals with a need to know. When necessary to protect the integrity of the investigation, SMP may ask the individual accused and the complainant to maintain confidentiality as well. Such confidentiality may be required in order to protect potential witnesses, preserve evidence and testimony, or to prevent a fabrication or cover-up; and
  - c. That any retaliation against or intimidation of any individual who has made a complaint or who has participated in an investigation of a harassment or discrimination charge will not be tolerated and should be reported immediately to SMP Human Resources.

#### D. Resolution

1. Complaints will be:
  - a. Responded to in a timely manner;
  - b. Kept confidential to the extent possible;
  - c. Investigated impartially by qualified personnel in a timely manner;
  - d. Documented and tracked for reasonable progress;
  - e. Resolved appropriately by considering options for remedial action and resolution; and
  - f. Closed in a timely manner.
2. If it is determined that harassment, discrimination, or retaliation, or other prohibited conduct has occurred, appropriate corrective and remedial action will be taken in accordance with the circumstances involved. SMP will also take appropriate action to deter future misconduct.
3. The SMP Human Resources representative or appropriate designee will inform the complainant of the results of the investigation, and any action that will be taken to remedy the harassment to the extent that it can be disclosed.
4. Any employee, supervisor, manager, director or above who is found, after appropriate investigation, to be responsible for harassment, discrimination, or retaliation will be subject to appropriate disciplinary action, up to and including termination. Employees should also know that if they engage in unlawful harassment, they can be held personally liable for the misconduct.

#### E. Available Resources for Reporting Complaints

1. Employee's immediate supervisor or the next level manager
2. SMP Human Resources

3. Any member of SMP management
4. Director of Compliance
5. External resources: In addition to the internal resources that are available, employees may file complaints regarding unlawful discrimination, harassment or retaliation with either the Federal Equal Employment Opportunity Commission or with the California Department of Fair Employment & Housing. Contact information for these agencies is available in the Government section of the telephone book and online.

## V. COMPLIANCE

- A. All workforce members, including employees, affiliated providers, and contracted staff are responsible for complying with this policy.
- B. Violations of this policy must be reported to the author of this policy. Violations will be investigated to assess the nature, extent and potential risk to SMP. Workforce members who violate this policy will be subject to the appropriate disciplinary action up to and including termination.
- C. Employees and contracted staff who violate this policy will be subject to the appropriate disciplinary action up to and including termination.
- D. Affiliated providers who violate this policy will be subject to the appropriate disciplinary action through Medical Group governance or SMP Quality Improvement and Credentialing Committee ("QICC") as appropriate.

## VI. DOCUMENT HISTORY

- A. Legal Authority Reference
  1. Federal Title VII of the Civil Rights Act of 1964
  2. Federal Equal Employment Opportunity Act of 1972
  3. California State Government Code §§12900 - 12996: California Fair Employment and Housing Act of 1959
  4. California Government Code Section 12950

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## Approval Signatures

**Step Description**

**Approver**

**Date**



Executive Leadership Approval	Michael O'Connell: Chief Operating Officer	06/2021
UHA P&P Approval	John Higginbotham: Director of Corporate Operations	06/2021
UHA P&P Approval	Dionne Hunte-Macon: Executive Director of Strategic Initiatives	06/2021
UHA P&P Approval	John Higginbotham: Director of Corporate Operations	06/2021
UHA P&P Committee Review	Joyce Ko: Program Manager	06/2021
VP of HR	Rochelle Noone: VP Human Resources Diversity and Inclusion	05/2021
Director of HR	Laura Grubb: Director of Human Resources	05/2021
	Emiko Nakagawa: Human Resources Leader (Manager)	05/2021