



# HEALTH RESEARCH INCORPORATED

<b>Policy Title:</b>	<b>Document ID:</b>
Anti-Discrimination and Anti-Harassment	5.01
<b>Division:</b>	<b>Department:</b>
Corporate	Human Resources
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Cheryl Mattox Executive Director	1991-08-01

## Policy:

All employees of Health Research, Inc. (HRI) shall comply with HRI policies and procedures; applicable federal, state, and local laws, and regulations; and applicable Executive Orders prohibiting discrimination, harassment (including sexual harassment), and retaliation.

## Purpose/Scope:

This policy applies to all HRI applicants, employees (supervisory and non-supervisory), student interns, temporary service personnel, stipend recipients, contractors and other non-employee personnel conducting business with HRI.

Conduct prohibited by this policy is prohibited in the workplace, which includes but may not be limited to, business-related travel, HRI functions (whether on or off HRI premises), or any location where HRI business is conducted.

## Definitions:

**Complainant** is an individual who reports a violation of this policy.

**Respondent** is the individual who is accused of a violation of this policy.

**Unlawful Discrimination and Harassment** – Discrimination and harassment can occur in a variety of forms among any combination of individuals at HRI.

Unlawful harassment is a form of unlawful discrimination. HRI prohibits harassment on the basis of any protected classification. Unlawful harassment includes, but is not limited to, unwelcome or inappropriate verbal, physical, or other communication or conduct that denigrates or shows hostility or aversion to an individual and/or group and:

- Has the purpose or effect of creating an intimidating, hostile, or offensive work environment; or

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

Unlawful harassment may include, but is not limited to: jokes, epithets, slurs, negative stereotyping; threatening, intimidating, or hostile acts; or written or graphic material including email that denigrates or shows hostility or aversion toward an individual or group on the basis of a protected characteristic.

Other unwelcome conduct may constitute harassment, such as:

- **Verbal:** derogatory slurs, off-color jokes, propositions, threats, or suggestive or insulting sounds;
- **Visual/non-verbal:** derogatory posters, cartoons, or drawings; suggestive objects or pictures; graphic commentaries; leering; or obscene gestures;
- **Physical:** unwanted physical contact, including touching, interference with an individual's normal work movement, or assault; and
- **Other:** making or threatening reprisals to an individual who opposes, objects to, or complains about illegal discrimination including harassment.

Verbal and physical conduct may constitute harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions; or
- The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

**Protected Characteristics** – An individual's race, color, religion, national origin, age, gender/sex (including pregnancy), sexual orientation, gender identity, transgender status, disability (including pregnancy-related conditions), genetic information, predisposition or carrier status, marital or familial status, military or veteran status, domestic violence victim status, known relationship or association with a member of a protected category, or any other characteristic protected by applicable federal, state and/or local law.

Discriminatory harassment does not include petty slights or trivial inconveniences, but rather unwanted conduct that impacts the work environment as described above.

The definition of "sexual orientation" includes an individual's actual or perceived romantic, physical or sexual attraction to other persons, or lack thereof, on the basis of gender. The definition of "gender" includes actual or perceived sex, gender identity, and gender expression including a person's actual or perceived gender-related self-image, appearance, behavior, expression, or other gender-related characteristics, regardless of the sex assigned to that person at birth.

**Sexual Harassment** – Sexual harassment is a form of discrimination and harassment that is against the law and prohibited by this policy.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

1) Submission to such conduct is made, either by threat or insinuation, either explicitly or implicitly, a term or condition of an individual's employment;

or

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

or

3) The conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment, even if the reporting individual is not the intended target of the sexual harassment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient's job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment, or any other terms, conditions, or privileges of employment. This is also called "quid pro quo" harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

### Examples

Examples of acts that may be unlawful sexual harassment and that are strictly prohibited include:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another individual's body or poking another individual's body;
  - Rape, sexual battery, molestation, or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities.
  - Sexually oriented gestures, noises, remarks, or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
  - Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look
  - 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. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender, such as:
  - Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - Sabotaging an individual's work;
  - Bullying, yelling, name calling.

### Who Can be a Target of Sexual Harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker, or anyone in the workplace including an independent contractor, contract worker, vendor or visitor.

### Where Can Sexual Harassment Occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer-sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

### **COMPLAINTS**

HRI cannot prevent or remedy discrimination or harassment unless it is aware of it. Any individual who experiences or becomes aware of discrimination or harassment has a responsibility to promptly report the behavior.

The Corporate Director of Human Resources is the Affirmative Action Officer for the Corporation and is responsible for monitoring and directing HRI's compliance with its own policies and procedures, and the laws, regulations and applicable Executive Orders prohibiting discrimination, harassment (including sexual harassment) and retaliation. The Corporate Director of Human Resources reports to the Executive Director.

Any individuals who believe that they have experienced, witnessed, or otherwise become aware of conduct that violates this policy are expected to report the conduct to an appropriate member of management, other than the Respondent. Appropriate management representatives include: the individual's supervisor; HRI's Corporate Director of Human Resources; HRI's Assistant Director of Human Resources; the local Human Resources department (for employees working in HRI's Roswell Park Division); or any other member of management with whom the employee feels comfortable. If an individual has a concern that directly or indirectly involves the Corporate Director of Human Resources or the Assistant Director of Human Resources, or otherwise reasonably believes that a report cannot be made to any of the above-referenced management representatives, he or she is expected to contact the Executive Director.

All employees, including supervisors, are required to report all formal and informal complaints to the Corporation Director of Human Resources or the Assistant Director of Human Resources. In addition to being subjected to discipline if they engaged in discriminatory or harassing behavior themselves, supervisors will be subject to discipline for failing to immediately report suspected discrimination or harassment or otherwise knowingly allowing discrimination or harassment to continue.

Reports made under this policy may be made formally or informally and can be made orally or in writing, and employees are not required to report within their chain of command. Employees are encouraged to report incidents of discrimination and harassment, including sexual harassment, using the complaint form provided by HRI.

All reports of suspected violations of this policy will be promptly and thoroughly investigated. Any such investigation will be prompt, fair, impartial and thorough. The investigation will be kept confidential to the extent possible. All persons involved, including those making a report, witnesses, and alleged harassers, will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation. Any employee who participates in such an investigation will not be retaliated against.

Investigations of discrimination and harassment are conducted in accordance with the following steps:

- Conduct an immediate review of the allegations and take any interim actions, as appropriate. If the report is verbal, an individual may be asked to complete the complaint in writing.
- If documents, emails, or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses.
- Create written documentation of the investigation which may contain the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - The basis for the decision and final resolution of the report, together with any corrective action.

- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) against whom the report was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in this policy.

Any individual determined to have engaged in unlawful discrimination, harassment, or sexual harassment will be subject to discipline, up to and including termination.

## **PROHIBITION OF RETALIATION**

HRI will not take any adverse employment action in retaliation against any employee who, with a good faith belief, reports that s/he has been discriminated against, harassed, or brings or voices a report of such conduct pursuant to this policy on behalf of him or herself or on behalf of another. Any employee of HRI who retaliates against another individual for: (1) making a report under this policy; (2) participating in any investigation into discrimination or harassment; or (3) opposing acts of unlawful discrimination in the workplace will be subject to disciplinary action, up to and including termination.

Under New York State law, an individual is protected from retaliation if that individual engages in “protected activity.” Protected activity occurs when a person has:

- Made a report of discrimination or harassment, either internally or with any anti-discrimination agency;
- Testified or assisted in a proceeding involving discrimination or harassment under the Human Rights Law or other anti-discrimination law;
- Opposed discrimination or harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of discrimination or harassment;
- Reported that another employee has been discriminated against or harassed; or
- Encouraged a fellow employee to report discrimination or harassment.

Adverse employment action need not be job-related or occur in the workplace to constitute unlawful retaliation.

Individuals who knowingly bring false charges of discrimination, including any form of harassment, against another HRI employee or other individual shall be subject to disciplinary action, up to and including termination.

## **LEGAL PROTECTIONS AND EXTERNAL REMEDIES**

Discrimination and harassment are not only prohibited by HRI, but are also prohibited by federal, state, and where applicable, local law.

Aside from the internal process at HRI, individuals may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, individuals may seek the advice of an attorney.

### *New York State Division of Human Rights*

The New York State Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to discrimination or harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time within one year of the discrimination or harassment (three years for complaints of sexual harassment). If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged discrimination or harassment. An individual may not file with DHR if they have already filed an HRL complaint in state court.

Complaining internally to HRI does not extend the time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of discrimination or harassment. An individual does not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate complaints and determine whether there is probable cause to believe that discrimination or harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination or harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring an employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information for claims of sexual harassment is:

NYS Division of Human Rights  
One Fordham Plaza, Fourth Floor  
Bronx, New York 10458  
(T) (718) 741-8400

DHR also has the offices located at:

NYS Division of Human Rights  
Agency Building 1, Empire State Plaza,  
Albany, New York 12220  
(T) (518) 474-2705

NYS Division of Human Rights  
65 Court St #506  
Buffalo, New York 14202  
(T) (716) 847-7632

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### Equal Employment Opportunity Commission

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the discrimination or harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### Local Protections

Many localities enforce laws protecting individuals from discrimination and harassment. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of discrimination or harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

### Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

### **CONCLUSION**

This policy and procedures have been established to ensure that all may work in an environment free from illegal discrimination, including illegal harassment. Any questions regarding this policy and procedures should be brought to the attention of Human Resources.

### **Administration/Oversight:**

#### **Violation of Policy**

Employees who violate this policy by engaging in unlawful discrimination, harassment, or sexual harassment will be subject to discipline, up to and including termination.

#### **Supervisor Responsibility**

Supervisors will be subject to discipline for failing to immediately report suspected discrimination or harassment or otherwise knowingly allowing discrimination or harassment to continue.

### **Distribution:**

This Policy will be distributed to employees of HRI and supervisors of HRI employees.