

## 1 - 9 7 NON-DISCRIMINATION AND ANTI-HARASSMENT (INCLUDING SEXUAL HARASSMENT)

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| <b>HUMAN RESOURCES<br/>POLICY AND PROCEDURE MANUAL</b> | <b>SUBJECT: Non-Discrimination and Anti-Harassment<br/>(Including Sexual Harassment)</b> |
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### **NON-DISCRIMINATION**

Montefiore Einstein Advanced Care draws strength, talent, and insight from the diverse views and experiences of its Associates. This diversity is a strategic asset to Montefiore Einstein Advanced Care because it helps Montefiore Einstein Advanced Care recruit and retain the best possible Associates who, in turn, provide patients with the best possible care.

To sustain this diversity, Montefiore Einstein Advanced Care will recruit, hire, train, transfer, promote, layoff and discharge Associates in all job classifications without regard to their race, color, religion, creed, national origin, alienage or citizenship status, age, sex/gender, actual or presumed disability, history of disability, sexual orientation, gender identity or expression, sexual and other reproductive health decisions, genetic predisposition or carrier status, pregnancy, military status or service, familial status, marital or partnership status, arrest or conviction record, caregiver status, credit history, unemployment status, salary history, status as victim of domestic violence, sexual violence, or stalking, or any other characteristic protected by law.

Likewise, Montefiore Einstein Advanced Care will make human resources and staffing decisions such as setting compensation, establishing work schedules, completing performance appraisals, delivering benefits, assigning tasks, reviewing requests for time off from work, allocating resources, and administering leave of absence and other policies without regard to race, color, religion, creed, national origin, alienage or citizenship status, age, sex/gender, actual or presumed disability, history of disability, sexual orientation, gender identity or expression, sexual and other reproductive health decisions, genetic predisposition or carrier status, pregnancy, military status or service, familial status, marital or partnership status, arrest or conviction record, caregiver

status, credit history, unemployment status, salary history, status as victim of domestic violence, sexual violence, or stalking, or any other characteristics protected by law.

In accordance with Human Resources Policy VI-8 concerning the employment of qualified Associates with a disability, Montefiore Einstein Advanced Care will provide reasonable accommodations to Associates with disabilities so that they can perform the essential functions of their positions.

Examples of prohibited behavior include:

- Allowing racial, ethnic, sexual, or religious stereotypes or assumptions to influence hiring or promotional decisions, or an appraisal of an individual's performance;
- Refusing to hire, transfer, or promote a qualified individual because of his/her age;
- Refusing to hire, transfer, or promote a qualified individual because of his/her religious beliefs or practices;
- Refusing to hire, transfer, or promote a qualified individual because he/she is responsible for caring for a child, parent, or a person with a disability;
- Refusing to hire, transfer, or promote a qualified individual because he/she speaks English with an accent, or because English is not his/her primary language;
- Refusing to hire, transfer, or promote a qualified individual because he/she is regarded as disabled or has a history of disability;
- Refusing to hire, transfer or promote a qualified individual because of perceived sexual orientation, or stated gender identity or expression;
- Refusing to hire, transfer or promote a qualified individual because of sexual and other reproductive health decisions;
- Refusing to hire, transfer, or promote a qualified individual who is legally authorized to work in the United States because of the nature of his/her work authorization;
- Refusing to discuss with a disabled individual reasonable accommodations that would enable him/her to perform the essential functions of his/her position;
- Refusing to grant an individual a leave of absence to fulfill his/her military service obligations;
- Prohibiting Associates from conversing in a language other than English during their break periods or when not performing their duties;
- Refusing to hire, transfer, or promote a qualified individual because they may be pregnant, or may become pregnant in the future; or
- Using racial, ethnic, sexual, or religious slurs.

## **TRAINING**

Montefiore Einstein Advanced Care provides annual sexual harassment training for all Associates, including supervisory and managerial employees, as required by New York State law. Participation in such training is required. Montefiore Einstein Advanced Care will take appropriate administrative remedies to ensure compliance.

## **HARASSMENT**

### **A. Unlawful Harassment:**

- Under this policy, harassment is verbal or physical conduct that denigrates or shows hostility to or aversion toward an individual because of his/her race, color, sex/gender, religion, creed, national origin, alienage or citizenship status, age, actual or presumed disability, history of disability, sexual orientation, gender identity or expression, sexual and other reproductive health decisions, genetic predisposition or carrier status, pregnancy, military status or service, familial status, marital or partnership status, arrest or conviction record, caregiver status, credit history, unemployment status, salary history, status as victim of domestic violence, sexual violence, or stalking, or any other characteristics protected by law that: (i) has the purpose or effect of creating an intimidating, hostile or offensive work environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities. Harassing conduct may include (but is not limited to):
  - Epithets, slurs or negative stereotyping;
  - Threatening or intimidating acts;
  - Denigrating jokes; or
  - Displaying or circulating objects or written or graphic material that denigrates or shows hostility or aversion toward an individual or group (including through e-mail, the internet, or the mail).

#### B. Sexual Harassment:

- Montefiore Einstein Advanced Care is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.
- All Associates are required to work in a manner that prevents sexual harassment in the workplace. All Associates have a legal right to a workplace free from sexual harassment and Associates are urged to report sexual harassment by filing a complaint internally with Montefiore Einstein Advanced Care.
- Sexual harassment will not be tolerated. Any Associate or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
- Sexual harassment is offensive, is a violation of Montefiore Einstein Advanced Care's policies, is unlawful, and may subject Montefiore Einstein Advanced Care to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Associates of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
- Montefiore Einstein Advanced Care will conduct a prompt and thorough investigation whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Montefiore Einstein Advanced Care will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All Associates, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
- All Associates are encouraged to report any harassment or behaviors that violate this policy. Montefiore Einstein Advanced Care has created a complaint form for Associates to report sexual harassment and file complaints.
- Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to a supervisor, manager, Human Resources. 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:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

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, 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 Associate 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. 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, client, customer or visitor.

### Examples of Sexual Harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
  - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another Associate's body or poking another Associate'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, 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.

### **RETALIATION IS PROHIBITED**

Unlawful retaliation can be any action that could discourage an Associate from coming forward to make or support a claim of discrimination or harassment (including sexual harassment). Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Consistent with federal, state and local law, this Policy prohibits retaliation including intimidation against any individual who (a) complains or reports, in good faith, discrimination or harassment (including sexual harassment) or retaliation either internally or with any anti-discrimination agency; (b) provides information, or otherwise assists or participates in an investigation of such a report, including testifying at any proceeding; (c) encourages a fellow Associate to report discrimination or harassment (including sexual harassment) or retaliation; or (d) conducts an investigation, effects discipline and/or reports prohibited conduct to a government agency. Even if the alleged discrimination or harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful.

All Associates and non-employees working in the workplace who believe they have been subject to such retaliation should make a complaint in the manner described below.

The prohibition against retaliation applies to Associates, including Supervisors and Managers. Supervisors and Managers will be subject to discipline for engaging in any retaliation.

Montefiore Einstein Advanced Care will not tolerate retaliation against anyone who, in good faith, reports or provides information about discrimination or harassment (including sexual harassment) or retaliation. Montefiore Einstein Advanced Care will severely discipline any person who engages in retaliation. Such discipline may include (but is not limited to) a suspension without pay or termination.

### **PROCEDURE:**

### **REPORTING AN INCIDENT OF DISCRIMINATION, HARASSMENT (Including SEXUAL HARASSMENT), OR RETALIATION**

Early reporting and intervention are the most effective methods of remedying actual and perceived discrimination, harassment (including sexual harassment), and retaliation. Montefiore Einstein Advanced Care

cannot prevent or remedy actual and perceived discrimination, harassment (including sexual harassment), and retaliation unless it knows about it. Therefore, Montefiore Einstein Advanced Care strongly urges individuals to report promptly their complaints or concerns so that it can take prompt and effective action.

Any Associate or non-employee who witnesses, becomes aware of, or has been subjected to behavior that may constitute discrimination, harassment (including sexual harassment), or retaliation should report such behavior to a supervisor, manager, or Human Resources.

A form for submission of a written complaint is accessible on Montefiore Einstein Advanced Care's Intranet. All Associates are encouraged to use this complaint form when reporting harassment (including sexual harassment). Associates who are reporting harassment on behalf of other Associates should use the complaint form and note that it is on another Associate's behalf.

Individuals who believe they have experienced discrimination, harassment (including sexual harassment) or retaliation can make or report a complaint verbally or in writing to any of the following:

- The individual's immediate Supervisor;
- The administrative or clinical leader of the individual's department;
- Human Resources

An individual should not feel obligated to make a complaint to his/her immediate Supervisor first. The individual can complain immediately to any of the persons/office listed above.

This policy does not preclude an individual who believes he/she experienced discrimination, harassment, or retaliation from promptly advising the offender that his/her conduct is unwelcome and from requesting that the offender discontinue the objectionable conduct.

This policy relies, in part, on the good faith of Montefiore Einstein Advanced Care's Associates. If an Associate deliberately abuses this policy and files a false or malicious complaint, Montefiore Einstein Advanced Care may discipline the Associate. Such discipline may include (but is not limited to) a suspension without pay or discharge.

#### **SUPERVISORS AND MANAGERS MUST REPORT DISCRIMINATION, HARASSMENT OR RETALIATION**

Supervisors and Managers are required, under this Policy and the law, to promptly report to Human Resources, any complaint or information they receive concerning discrimination, harassment or retaliation.

Furthermore, all Supervisors and Managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to Human Resources. In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

#### **INVESTIGATION OF COMPLAINTS**

Montefiore Einstein Advanced Care will promptly investigate all complaints or information about discrimination, harassment (including sexual harassment), or retaliation, whether that information was reported in verbal or written form.

Depending on the circumstances and the nature of the allegations, a Supervisor in the department where the complaining Associate works, a representative from the Human Resources Department, or an outside party retained by Montefiore Einstein Advanced Care may conduct the investigation.

The investigation will be prompt, thorough, fair, impartial and accurate, and will be commenced immediately and completed as soon as possible.

Montefiore Einstein Advanced Care will keep confidential the identities of the individuals involved in the investigation (including the person who made the complaint, the person accused of violating this Policy, and the persons interviewed during the investigation) only to the extent feasible to conduct an adequate investigation and take corrective action.

The scope of the investigation depends on the nature of the complaint. Both the person(s) raising the complaint and the person(s) about whom the complaint was made will be permitted to provide information that may be relevant to the investigation. Montefiore Einstein Advanced Care also will gather information and speak with witnesses, as applicable. Once the investigation is completed and a determination is made, the complaining party will be advised that the investigation has been completed and may be informed of the resolution. The individual about whom the complaint was made will be informed of the outcome and if it is determined that this policy has been violated, will be subject to disciplinary action.

Any Associate may be required to cooperate as needed in an investigation. Montefiore Einstein Advanced Care will not tolerate retaliation against Associates who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

### **CORRECTIVE ACTION**

Montefiore Einstein Advanced Care will address a violation of this policy promptly and effectively. Depending on the circumstances, corrective action by Montefiore Einstein Advanced Care may include one or more of the following measures:

- Counseling;
- Training;
- Disciplinary warning or suspension without pay;
- Denial of a promotion or pay increase;
- Reduction in wages;
- Demotion;
- Reassignment;
- Discharge;
- Reporting to professional and/or investigate authorities (such as the Office of Professional Discipline and the Office of Professional Medical Conduct);
- Termination of the relationship with the vendor;
- Termination of the relationship with the independent contractor.

In cases where Montefiore Einstein Advanced Care concludes that this policy was not violated but that an Associate engaged in unprofessional or inappropriate conduct, Montefiore Einstein Advanced Care may, in its discretion, discipline the Associate (including a suspension without pay or discharge) or reassign him/her to another Supervisor, department or location.

### **Legal Protections and External Remedies**

Sexual harassment is not only prohibited by Montefiore Einstein Advanced Care but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at Montefiore Einstein Advanced Care, employees may also choose to pursue legal remedies with the following governmental entities, and employees subjected to unlawful discrimination, harassment or retaliation may be entitled to certain remedies, including monetary damages, civil penalties, and injunctive relief (such as an order that certain action be taken or that certain behavior stop). While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

The Equal Employment Opportunity Commission has district, area and regional offices and may be contacted by visiting [www.eeoc.gov](http://www.eeoc.gov), emailing [info@eeoc.gov](mailto:info@eeoc.gov) or by telephone at 1-800-669-4000 (TTY 1-800-669-6820).

The New York State Division of Human Rights may be contacted by visiting [www.dhr.ny.gov](http://www.dhr.ny.gov), by telephone at 718-741-8400, or by mail to One Fordham Plaza, Fourth Floor, Bronx, New York 10458.

Information regarding federal, state and city courts is also available online.

#### Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. 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 Westchester County may file complaints of sexual harassment with the Westchester County Human Rights Commission. Contact their main office at 112 East Post Road, 3rd Floor, White Plains, New York 10601; call (914) 995-7710; or visit <https://humanrights.westchestergov.com>

#### 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, and the individual should consider contacting the local police department.

*All Montefiore Einstein Advanced Care Human Resources policies and practices are guidelines and may be changed, modified or discontinued at any time by Montefiore Einstein Advanced Care's Executive Director or designee, with or without notice. Exceptions do not invalidate the basic policy*