



Policy: *Sexual Harassment, Sexual Abuse and Sexual Misconduct*

Responsible Office:	Risk Management	Category:	Governance and Administration
Authorized:	Executive Vice President, General Counsel	Policy Number:	ADM-S010
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Purpose

This policy documents the Center's commitment to the prohibition against Sexual Harassment, Sexual Abuse and Sexual Misconduct. Consistent with this commitment, this policy sets forth the processes and procedures for reporting allegations and conducting investigations of Sexual Harassment, Sexual Abuse and Sexual Misconduct.

Scope

This policy applies to all members of the Workforce, patients and applicants.

Stakeholders: Human Resources and Risk Management

Policy Statement

- I. The Center is committed to providing an environment in which all individuals are treated with respect and dignity. The Center believes that each individual has the right to work and receive care in a professional and safe atmosphere that promotes equal employment opportunities and prohibits Discrimination, Harassment, Sexual Harassment, Sexual Abuse, Sexual Misconduct and Retaliation. The Center expects that all relationships among persons at the Center will be business-like and free of Discrimination, Harassment, Sexual Harassment, Sexual Abuse, Sexual Misconduct and Retaliation. Thus the Center does not and will not tolerate Discrimination, Harassment, Sexual Harassment, Sexual Abuse, Sexual Misconduct and Retaliation of or by the Center's Workforce, patients, contractors, consultants, agents applicants, customers or vendors.
- II. The Center's prohibition against Discrimination and Harassment is set forth in Policy, ADM-H013.
- III. **Sexual Harassment Prohibited:**
 - A. Any act that falls within the definition of Sexual Harassment as that term is defined in this Policy is prohibited at the Center. Examples include, but are not limited to:
 1. Unwelcome or unwanted sexual advances, requests or demands for favors, offensive touching and other types of conduct whether it be physical, verbal, graphic, or electronic communication (including e-mail and facsimiles) of a sexual nature involving individuals of the same or different gender.
 2. Unwelcome or unwanted physical contact of a sexual nature and/or sexual advances including, but not limited to, patting, pinching, brushing up against, hugging, cornering, grabbing, massaging, kissing, fondling or any other similar physical contact.
 3. Unwelcome requests or demands for favors including, but not limited to, subtle or blatant expectations, pressures, requests or demands for sexual, unethical or illegal favors; or unwelcome requests for dates or contacts with the individual. Such unwelcome requests or demands may or may not relate to an implied or stated promise of preferential treatment, or a threat of negative consequences concerning employment, including, but not limited to, promotion, demotion, transfer, layoff, termination, pay or other form of compensation, and selection for training or grants/research.
 4. Verbal and written abuse or unwelcome kidding that is sexually-oriented, including same-sex harassment; commentary about an individual's body, sexual prowess or sexual deficiencies;



Policy: *Sexual Harassment, Sexual Abuse and Sexual Misconduct*

dirty jokes or other jokes which are unwanted and considered offensive or tasteless; or comments, innuendoes, epithets, slurs, negative stereotyping, leering, catcalls or other actions that are sexually oriented or related to a prohibited form of Sexual Harassment.

5. Any form of behavior that unreasonably interferes with work performance, including, but not limited to, unwanted sexual attentions, comments, interruptions, or other sexually-oriented communications that rise to the level of Sexual Harassment and reduces productivity or time available to perform work-related tasks or otherwise interferes with work performance.
6. Sexually-oriented actions that create a work environment that is intimidating, hostile, abusive or offensive because of unwelcomed or unwanted conversations, suggestions, requests, demands, physical contact or attention, related to a prohibited form of Sexual Harassment.

B. All members of the Workforce and applicants are covered by this policy and are strictly prohibited from engaging in any form of Sexual Harassment. Further, no member of the Workforce has the authority to suggest to another member of the Workforce or applicant that the individual's employment, continued employment, or future advancement will be affected in any way by entering into, or refusing to enter into, a personal relationship. Such conduct is a direct violation of this policy.

C. Conduct prohibited by this policy is unacceptable at the Center and in any work-related setting outside the Center, such as business trips, business meetings and business-related social events. Normal, courteous, mutually respectful, pleasant, and non-coercive interactions between members of the Workforce, patients, contractors, consultants, agents, applicants, vendors, clients, or customers, including men and women, that are acceptable and consented to by all parties are not considered to be prohibited Sexual Harassment.

IV. **Sexual Abuse Prohibited.** Any act that falls within the definition of Sexual Abuse as defined by this Policy is prohibited.

V. **Sexual Misconduct Prohibited.** Any act that falls within the definition of Sexual Misconduct as defined by this policy is prohibited.

VI. **Retaliation Prohibited.** Retaliation by the Center or any member of the Workforce against another member of the Workforce or applicant for reporting any allegation of Sexual Harassment, Sexual Abuse or Sexual Misconduct is prohibited regardless of the ultimate merits of the complaint or the outcome of the investigation. Investigation of any Retaliation shall be conducted pursuant to Board Rule BR006 Non-Retaliation Policy.

Procedures

I. Internal and External Reporting of Allegations.

A. **Internal Reporting of Sexual Harassment.** The Center requires the reporting of all incidents of Sexual Harassment or Retaliation, regardless of the offender's identity or position. Individuals who believe that an act of Sexual Harassment or Retaliation has been performed against him/her by another member of the Workforce, patient, vendor, or other third party; or individuals who are concerned about such matters, must file a complaint with the Vice President, Chief Human Resources Officer in the Human Resources Department or his or her designee. The Human Resources Department shall share the complaint and consult with Risk Management and Office of General Counsel.

1. If a patient, member of the Workforce, or applicant suffers from Sexual Harassment by a supervisor, manager or any other member of the Workforce, patient, contractor, consultant, customer, vendor, or other third party and is not able to report, or is not comfortable reporting the Sexual Harassment to the Vice President, Chief Human Resources Officer in the Human Resources Department or his or her designee; or if a complaint concerning another member of the Workforce, patient, contractor, consultant, customer, vendor, supervisor, manager or other third party is not handled to the satisfaction of the patient, member of the Workforce, or applicant, the matter may be reported twenty-four (24) hours, seven (7) days a week to Corporate Compliance via a toll-free telephone number (1-844-760-5840).



Policy: *Sexual Harassment, Sexual Abuse and Sexual Misconduct*

2. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of Sexual Harassment. Therefore, while no fixed reporting period has been established, the Center strongly urges the prompt reporting of complaints or concerns so that rapid and constructive action can be taken.
3. This reporting procedure does not preclude individuals who believe they are being subjected to Sexual Harassment from promptly advising the offender that his or her behavior is unwelcome and requesting that it be discontinued.
4. This policy should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, or any protected characteristic, from participating in business or work-related social activities or discussions in order to avoid allegations of Sexual Harassment. The law and Institutional Policy prohibit disparate treatment on the basis of sex or any other protected characteristic with regard to terms, conditions, privileges and perquisites of employment. The prohibition against Sexual Harassment and Retaliation are intended to complement and further Institutional Policy, not to form the basis of an exception to them.

B. Mandatory Internal and External Reporting of Sexual Abuse.

1. Suspicion of Sexual Abuse:
 - a. Members of the Workforce, patients, and applicants shall immediately report any suspicion of Sexual Abuse to:
 - i. His/Her supervisor, if applicable;
 - ii. The Center's Risk Manager; and
 - iii. The Executive Vice President, Chief Operating Officer or his/her designee during regular business hours, or the Nursing Administrative Coordinator and On-Call Administrator/Vice President after regular business hours.
 - b. Upon receipt of a report of a suspicion of Sexual Abuse, and upon the completion of an investigation pursuant to Section II. of the Procedures Section in this policy which confirms the occurrence of Sexual Abuse, the Center's Risk Manager shall report such finding to the University of South Florida Police Department.
2. Actual Knowledge of Sexual Abuse:
 - a. Members of the Workforce, patients, applicants, and any other individuals at the Center who witness or possess actual knowledge of the act that is the basis of an allegation of Sexual Abuse shall immediately report the Sexual Abuse to:
 - i. The University of South Florida Police Department;
 - ii. The Center's Risk Manager; and
 - iii. The Executive Vice President, Chief Operating Officer or his/her designee during regular business hours, and to the Nursing Administrative Coordinator and On-Call Administrator/Vice President after regular business hours.
 - b. Upon receipt of a report of witnessed or actual knowledge of Sexual Abuse, the Center's Risk Manager shall ensure proper notification of the Executive Vice President, Chief Operating Officer or his/her designee during regular business hours, the Nursing Administrative Coordinator and On-Call Administrator/Vice President after regular business hours, and the University of South Florida Police Department.

C. Mandatory Internal and External Reporting of Sexual Misconduct.

1. Members of the Workforce, patients, and applicants shall immediately report to the Center's Risk Manager any allegation of Sexual Misconduct.
2. Licensed health care providers shall also report any allegation of Sexual Misconduct directly to the Department of Health utilizing the Department of Health's General Healthcare Practitioner Complaint Form, which can be located at <https://mqg-flhealthcomplaint.doh.state.fl.us/>



Policy: *Sexual Harassment, Sexual Abuse and Sexual Misconduct*

3. Upon receipt of an allegation of Sexual Misconduct, the Center's Risk Manager shall: (i) report such allegation to the Executive Vice President, Chief Operating Officer or his/her designee during regular business hours, the Nursing Administrative Coordinator and On-Call Administrator/Vice President after regular business hours; (ii) if the victim is a minor, notify the family or guardian of the victim of the alleged Sexual Misconduct that an allegation of Sexual Misconduct has been made and an investigation is being conducted; and (iii) report such allegation to the Department of Health utilizing the Department of Health's General Healthcare Practitioner Complaint Form, which can be located at <https://mqa-flhealthcomplaint.doh.state.fl.us/>, if the allegation is made against a licensed health care practitioner.

II. Investigation of Allegations.

A. Mandatory Investigations.

1. Allegations of Sexual Harassment or Retaliation will be thoroughly investigated in a timely manner by the Vice President, Chief Human Resources Officer in collaboration with Risk Management or his/her designee.
2. Allegations of Sexual Abuse and Sexual Misconduct shall be promptly and thoroughly investigated by the Center's Risk Manager or his/her designee.

B. Medical Staff Investigation.

1. Mandatory Investigations of Sexual Harassment, Sexual Abuse, or Sexual Misconduct performed under this policy that (i) appear to affect the quality of patient care and (ii) involve members of the medical staff shall be reviewed for referral to the Medical Executive Committee (MEC). The Office of General Counsel will consult with Human Resources and Risk Management in the review of these investigations to ensure a referral is made when appropriate.
2. Mandatory Investigations referred to the Medical Executive Committee shall be treated as a request for an investigation pursuant to Article V of the Medical Staff Bylaws, Corrective Action. The Medical Executive Committee shall conduct its investigation in accordance with the procedures set forth in the Medical Staff Bylaws.

- III. **Confidentiality.** Unless otherwise required by law, all aspects of the reporting and investigation of any allegation of Sexual Harassment, Sexual Abuse, or Sexual Misconduct shall be kept in confidence by and among the participants of the investigation until the investigation is complete and a resolution is reached. Any person utilizing this complaint resolution process will be treated courteously, and the problem will be handled swiftly and as confidentially as possible in light of all circumstances, with appropriate action being taken. A complainant's request for confidentiality and anonymity will be honored, when possible, provided that such request does not impede or hamper the investigation process. As part of the investigation, it may be necessary to interview the accused and those individual identified as potential witnesses. The registering of a complaint will in no way be used against the complainant, nor will it have an adverse impact on the complainant's employment status.

- IV. **Records.** A record of any complaint and the findings or determination of Sexual Harassment, Sexual Abuse, or Sexual Misconduct will become a part of the complaint investigation record. The complaint investigation record will be maintained separately from the personnel files. In all cases, the record of the complaint, report of findings, and any other paperwork created as part of the investigation process shall be maintained as set forth in the Center's Board Rule BR007 Records Retention and Disposal Policy.

- V. **Consequences.** The Center considers its prohibition of Sexual Harassment, Sexual Misconduct, Sexual Abuse and Retaliation to be extremely important and consistent with the Center's efforts to ensure compliance with the Law and to foster a positive, productive and constructive working environment and patient care setting. As such, violations of this policy, whether in the form of Sexual Harassment, Sexual Misconduct, Sexual Abuse, or Retaliation, will result in disciplinary action up to and including termination. The severity of the discipline will



Policy: *Sexual Harassment, Sexual Abuse and Sexual Misconduct*

depend upon the frequency and severity of the violations identified through the investigation processes described in this policy.

- A. Disciplinary and corrective action for members of the medical staff shall be in accordance with the procedures set forth in the Medical Staff Bylaws.
- B. Disciplinary and corrective action for all members of the Workforce who are not members of the medical staff may include training, referral to counseling and/or disciplinary action such as warning, reprimand, withholding of a promotion or pay increase, reassignment, administrative leave or termination, as the Center believes appropriate under all of the circumstances.
- C. In certain circumstances, termination may result from a single violation of this policy. Acts of Sexual Harassment, Sexual Abuse and Sexual Misconduct may also result in criminal prosecution.

VI. **Other.** If a complainant does not agree with the resolution of the complaint, the complainant may report his/her concern to (i) the Office of Faculty Affairs or Human Resources (ii) the Office of Corporate Compliance or the (iii) Compliance Hotline.

Forms

N/A

Related Information

- ADM-A011 Administrator On-Call Coverage
- ADM-H013 Harassment and Discrimination
- ADM-R004 Risk Management Function
- BR003 Compliance Reporting Policy
- BR006 Non-Retaliation Policy
- BR007 Records Retention and Disposal Policy
- GP-08 Equal Employment Opportunity/Affirmative Action Employer Status
- GP-12 Violence Free Workplace
- WR-03 Disciplinary Review Process
- WR-14 Relationships in the Workplace
- Investigation and Corrective Action Process Under Medical Staff Bylaws

Education

Employee Orientation; Alternative non-Employee Orientation; Annual Mandatory Education; Annual review and acknowledgment of the Center's Code of Ethics & Professional Conduct

Definitions

Center – Collectively and individually the H. Lee Moffitt Cancer Center and Research Institute, Inc. and its not-for-profit subsidiaries.

Discrimination – Unfair or unequal treatment of an individual based on certain characteristics, including, but not limited to, race, color, sex (includes discrimination against or harassment of individuals of the same sex), sexual orientation, genetic information, gender identity and expression, pregnancy, religion, national origin, citizenship, age, disability, workers compensation claims, marital status, veteran or any other protected status involving individuals of the same or different gender.



Policy: *Sexual Harassment, Sexual Abuse and Sexual Misconduct*

Harassment - Unwanted, unwelcomed and uninvited conduct that demeans, threatens or offends an individual and results in or has the potential to result in a hostile environment for such individual, which may include without limitation derogatory comments or slurs and inappropriate propositions, assault, impeding or blocking movement, offensive touching or any physical interference with normal work or movement, and visual insults, such as derogatory posters, drawings, or cartoons.

Institutional Policy – A policy of the Center.

Law – Any United States, federal, state, or local law, statute, ordinance, code, rule, regulation, or any government order, or any license, permit, registration, or certified granted under any of the foregoing or any similar provision have the force or effect of law.

Medical Staff Bylaws – The bylaws as well as all rules and regulations promulgated for the organization, governance, and administration of the Center’s medical staff as may be amended from time to time.

Rape – Sexual contact, which includes oral, vaginal or anal penetration or fondling of an individual’s sex organ(s) by another individual's hand, sex organ, or any other object, without the individual’s consent.

Retaliation – Any adverse action taken against a member of the Workforce for cooperating with an internal investigation or due to good faith reporting of possible wrong-doing, including Sexual Harassment, Sexual Misconduct, or Sexual Abuse.

Sexual Abuse - Acts of a sexual nature committed for the sexual gratification of anyone upon, or in the presence of a minor; or an act of a sexual nature committed for the sexual gratification of anyone upon, or in the presence of a vulnerable adult without the vulnerable adult’s informed consent. Sexual Abuse includes Rape, fondling, exposure of a vulnerable adult’s or minor’s sexual organs, or the use of the vulnerable adult or minor to solicit for or engage in prostitution or sexual performance. Sexual Abuse does not include any act intended for a valid medical purpose or any act which may reasonably be construed to be a normal caregiving action.

Sexual Harassment – Unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal and physical conduct of a sexual nature.

Sexual Misconduct - Violation of the professional relationship through which a health care practitioner uses such relationship to engage or attempt to engage a patient or client, or an immediate family member, guardian, or representative of a patient or client in, or to induce or attempt to induce such person to engage in, verbal or physical sexual activity outside the scope of the professional practice of such health care profession.

Workforce – Team members, faculty, volunteers, trainees, and other persons whose conduct, in the performance of work, is under the direct control of the H. Lee Moffitt Cancer Center and Research Institute, Inc., and its subsidiaries, whether or not they are paid by the H. Lee Moffitt Cancer Center and Research Institute, Inc., or one of its subsidiaries.

References

Florida Civil Rights Act, Florida Statutes Chapter 760

Florida Statutes Section 395.0197, Section 456.063, Section 456.072, Section 458.329, Section 794.011(1)(h)

Title VII, 42 U.S.C. §§ 2000e, et seq.

29 CFR, Part 1604

Appendices

N/A

Revision History

10/2009, 02/2016, 03/2019, 03/2022