

 Kaleida Health POLICY	Title: Harassment	# HR.3
	Owner: Human Resources	Issued: 2/1/99
Keywords: Workplace Violence, Sexual Harassment, Physical Violence, Bullying, Threats		

I. Statement of Purpose

Kaleida Health is committed to maintaining a work environment where every workforce member is treated with dignity and respect and is valued for their diversity. Kaleida Health will not tolerate harassment or bullying of workforce members by other workforce members or consultants, contractors or vendors doing business with Kaleida Health. Organizational leaders are held to the highest of standards in this respect.

All workforce members are expected to comply with this policy and take appropriate measures to ensure that violations of this policy do not occur. Further, this policy establishes a procedure for the reporting, investigating and appropriate follow-up to harassment complaints.

Persons who engage in harassment or bullying will be subject to discipline up to and including termination of employment or contract. In determining whether the conduct at issue violates this policy, the totality of the circumstances will be considered. Whether or not a workforce member intended to harass or bully is irrelevant.

II. Audience

All Workforce Members:

- A. *Workforce member* means employees, volunteers, and other persons whose conduct, in the performance of work for Kaleida Health, is under the direct or in-direct control of Kaleida Health, whether or not they are paid by Kaleida Health.
- B. This includes full and part time employees, affiliates, associates, staff from third party entities that provide service to Kaleida Health, directors, officers, managers, supervisors, volunteers, physicians employed by or otherwise affiliated with Kaleida Health, medical residents, nursing students or others receiving training at any Kaleida Health facility, and others who provide goods or services to Kaleida Health.

III. Instructions

No employee will be retaliated against for reporting a complaint of harassment. All complaints will be investigated.

A. Responsibility

- 1.) Each leader is responsible to lead by example, to establish a businesslike work atmosphere, to treat every employee with dignity, and create a climate of work relationships free from harassment and bullying. Each leader is responsible to communicate this policy to all current staff as well as new employees. Further, it is the responsibility of all leaders to acknowledge **promptly** any complaint of harassment. Each leader and employee has an obligation to report **all** complaints and/or incidents of harassment to the Human Resources Department, within forty-eight (48) hours of being made aware.

- 2.) Confidentiality will be maintained to the extent practicable, but those with a legitimate business necessity will be informed. The procedures set herein are to be used as guidelines for management action and may be changed with or without prior notice.
- 3.) The site human resources departments will administer this policy for employees.
- 4.) The Purchasing Department shall administer this policy for all contractors and vendors.

B. Definitions:

- 1) Workforce Member:
 - a. *Workforce member* means employees, volunteers, and other persons whose conduct, in the performance of work for Kaleida Health, is under the direct or in-direct control of Kaleida Health, whether or not they are paid by Kaleida Health.
 - b. This includes full and part time employees, affiliates, associates, staff from third party entities that provide service to Kaleida Health, directors, officers, managers, supervisors, volunteers, physicians employed by or otherwise affiliated with Kaleida Health, medical residents, nursing students or others receiving training at any Kaleida Health facility, and others who provide goods or services to Kaleida Health.
- 2) Harassment:
 - a. Harassment can be described in simple terms as unwelcome behavior, including bullying, that affect the dignity of the individual concerned. It includes actions or comments viewed as demeaning or unacceptable by the recipient and may also be conduct that creates an intimidating, hostile or offensive atmosphere for the complainant(s).
 - b. Conduct that is acceptable to one person may prove to be unwelcome to another and the test applied must be that the conduct, whether unwitting or deliberate, is unacceptable to the recipient and would be judged as harassment by any reasonable person.
 - c. When defining harassment, the intentions of the person complained about are irrelevant.
 - d. Harassment may take many forms and includes behavior related to race, color, religion or belief, national origin, ancestry, age, sex, sexual orientation, gender identity and expression, marital status, veteran status, occupation, physical disability, mental disability, medical condition, or other personal characteristics. However, harassment can occur without being related to any of these.
 - e. The complainant does not have to be the person harassed, but could be anyone negatively impacted by the offensive conduct or who observes such conduct.
 - f. Examples of behavior that is likely to constitute harassment are given on **Attachment A**. The list is not exhaustive and other forms of harassment will be viewed equally seriously.
- 3) Sexual Harassment, also see HR 24

- a. The U.S. Equal Employment Opportunity Commission (EEOC) has issued guidelines prohibiting unlawful harassment including sexual harassment.
- b. Sexual harassment, as defined by these guidelines, is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - 1) Submission to this conduct explicitly or implicitly is a term or condition of 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) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive work environment.
- c. It shall be a violation of this policy for anyone who is authorized to recommend or take personnel actions affecting an employee, or who is otherwise authorized to transact business or perform other acts or services on behalf of the Kaleida system to:
 - 1) Make sexual advances or requests for sexual favors when submission to or rejection of such conduct is the basis for either implicitly or explicitly recommending, imposing, granting withholding or refusing terms and conditions that either favor or adversely affect the employment of the employee or individual.
 - 2) To recommend, impose, grant, withhold or refuse to take any employment related or other action consistent with their duties and responsibilities because of sexual favors or as a reprisal against an employee or other individual who has rejected or reported sexual advances.
 - 3) To disregard and fail to investigate allegations of sexual harassment whether reported by the employee or individual who is the subject of the alleged harassment or a witness, and to fail to take immediate corrective action in the event misconduct has occurred.
- d. Sexual harassment can occur in a variety of circumstances, including but not limited to, the following:
 - 1) The alleged offender may identify as a woman, man, transgender person or non-binary person. The individuals involved do not have to be of the opposite sex.
 - 2) The alleged offender can be the employee's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
 - 3) The complainant does not have to be the person harassed, but could be anyone negatively impacted as described above by the offensive conduct or who observes such conduct.
 - 4) Sexual harassment may occur even if it does not result in economic injury to the employee.

4. Bullying

Bullying is a form of harassment that uses non-physical forms of abusive expression, with malice, that is taken against an employee by an employer or another employee in the workplace, and that a reasonable person would find to be hostile & offensive. Kaleida Health prohibits workplace "Bullying", i.e. repeated patterns of verbal abuse, such as derogatory remarks, insults, epithets, intimidation or humiliation.

- C. Workforce members responsibility
 - 1) Workforce members who believe they are being harassed should not feel that it is their fault or that they have to tolerate it.
 - 2) Workforce members should encourage a person who says they have been harassed to make their concerns known to Kaleida Health leadership.
 - 3) Workforce members should be sensitive to the feelings of individuals who believe they have been harassed and refrain from taking part in, and actively discourage gossip or comment on the part of others about the alleged or actual harassment.

- D. Procedure for Filing a Complaint - Workforce members who feel aggrieved because of any form of harassment have several ways to make their concerns known (also see HR 24, 3L):
 - 1) Aggrieved individuals should make it clear to the person causing the offence that they find the behavior unacceptable and ask the person to stop. Unwillingness to approach the individual will not be interpreted to mean that the behavior is acceptable nor will it prejudice any complaint that may be brought.
 - 2) Any aggrieved person who does not wish to communicate directly with the person whose conduct is offensive, or if direct communication does not stop the offensive behavior, should promptly report the behavior to an immediate supervisor or manager.
 - 3) If the immediate supervisor or manager is the alleged offending party, report the offensive behavior to the next level of management for investigation and appropriate action.
 - 4) Aggrieved individuals may report the incident directly to the Site's Human Resources Department.
 - 5) Employees may also file a formal grievance in accordance with the Kaleida Health Corporate Policy and Procedure HR.8 - *Problem Resolution* or their collective bargaining agreement.
 - 6) Aggrieved individuals may also report through the automated reporting mechanisms, such as the Corporate Compliance hotlines and systems (Lighthouse, STARS)

- E. In dealing with reports of alleged harassment, information will be handled sensitively and discretely and only disclosed to those who need it for the purposes of considering the case.
 - 1) It will be leadership's responsibility to determine the level of appropriate corrective action and/or follow-up action based on the information obtained during the investigation process
 - 2) The complainant will not be informed of any confidential human resources action taken against the alleged offender; however, the complainant will be apprised of the outcome of the investigation.

- F. Confidentiality
 - 1) Maintaining confidentiality is critical to the integrity of an investigation.
 - 2) Each party contacted in connection with the investigation of a complaint of harassment, including any witnesses, will maintain confidentiality throughout the investigation.
 - 3) The leader who is conducting the investigation will advise all parties that breach of such confidentiality by any party could undermine the investigation and cause retaliation, and also could be considered an independent violation and cause for discipline regardless of the merits of the underlying charge.
 - 4) Records of harassment investigations are not maintained in the HR file, they are maintained in a separate confidential file.

- G. Non-retaliation
- 1) To prevent harassment, it is critical that individuals not be deterred from reporting it. Kaleida Health will not retaliate, nor will it tolerate retaliation, against individuals who report conduct that they reasonably and in good faith believe to be harassment, or who participate in any investigation of harassment.
 - 2) The initiation of a complaint of harassment will not cause any reflection on the complainant nor will it affect such person’s employment, compensation or work assignments.
 - 3) Individuals who retaliate against a complainant may be subject to discipline up to and including termination of employment or contract.

IV. Approved by - (Include date)

VP, Labor/Employee Relations	6/18/12, 6/21
Workplace Violence Prevention Committee	6/6/12
Corporate Policy Approval Committee	4/8/16

V. References (Include evidence based research, Kaleida Health policy, and regulation as applicable)
 New York Penal Law, Chapter 40, Section 240.00; New York Executive Law, Article 15

Civil Rights Act of 1964 (Title VII); Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; Age Discrimination in Employment Act of 1967

- HR.8 - Problem Resolution Process
- HR.15 - Standards of Personal Conduct
- HR.19 - Violence in the Workplace
- HR. 24- Sexual Harassment
- IT.5 - Internet Access Policy
- LE.5 - Code of Conduct and Business Ethics
- MED.9 - Disruptive Medical Staff Member Policy

Version History:

Effective Date:	Reviewed/ Revised
6/28/2021	Revised
4/25/16	Revised
6/12	Revised
2/08	Revised
1/05	Reviewed no changes
2/03	Revised

Kaleida Health developed these Policies, Standards of Practice, and Process Maps in conjunction with administrative and clinical departments. These documents were designed to aid the qualified health care team, hospital administration and staff in making clinical and non-clinical decisions about our patients’ care and the environment and services we provide for our patients. These documents should not be construed as dictating exclusive courses of treatment and/or procedures. No one should view these documents and their bibliographic references as a final authority on patient care. Variations of these documents in practice may be warranted based on individual patient characteristics and unique clinical and non-clinical circumstances. Upon printing, this document will be valid for 8/19/2022 only. Please contact Taylor Healthcare regarding any associated forms.



Examples of behavior that is likely to constitute harassment:

- Behavior of an offensive nature related to an individual's race, color, religion or belief, national origin, ancestry, age, sex, sexual orientation, gender identity and expression, marital status, veteran status, occupation, physical disability, mental disability, medical condition, or other personal characteristics;
- Any behavior that may cause distress, such as name-calling, ridicule, insults, jokes, graffiti, physical abuse, display of pornographic images, etc.;
- Sending inappropriate jokes or comments through e-mail, text, websites or other electronic media;
- The invasion of personal space;
- Displaying offensive material (on paper or electronically);
- Spreading malicious rumors;
- Intentional isolation or exclusion;
- Persistent, unwelcome contact; may include text messages, e-mails, phone calls, gifts, letters, calling a home, cell or work phone;
- Stalking;
- Making or threatening reprisals after a negative response to unwelcome conduct;
- Drawing unwelcome attention to or abusing someone's religious beliefs;
- Any threat, physical or verbal, of violence towards another person;
- Verbal and/or physical intimidation; threats, shouting; sarcastic remarks;
- Abuse of power or behavior that causes fear or distress for others;
- Making unfounded or inappropriate threats and/or comments about job security;
- Public ridicule, sarcasm or humiliation.

Examples of behavior that is likely to constitute sexual harassment:

- Engaging in sexist language, risqué or lewd jokes or gestures with sexual overtones;
- Display or distribution of written, graphic or electronic materials or objects that are of a sexual nature;
- Physical assaults such as attempted rape, or rape;
- Offensive sexual behavior such as:
 - Suggestive looks
 - Leering and remarks
 - Offensive flirtations
- Unwanted physical contact, such as pinching, stroking, brushing against the body, sexually suggestive touching, attempted kissing or fondling, persistent and unwelcome flirting
- Unwanted sexual advances
- Compromising invitations
- Offers of favored treatment in return for sex or threats of disadvantage if refused;
- Making public that someone is gay, lesbian, or bisexual when they would prefer to keep this information private.

NOTE: This list is not exhaustive and other forms of harassment will be viewed equally seriously.