

**GUAM MEMORIAL HOSPITAL AUTHORITY
ADMINISTRATIVE MANUAL**

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Lillian Perez-Posadas, MN, RN Hospital Administrator/CEO	Hospital-wide, EEO Office	February 28, 2022	A-HR1200	1 of 5
TITLE: SEXUAL HARASSMENT POLICY & COMPLAINT/INVESTIGATION PROCEDURE				
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PURPOSE

The purpose of this policy is to define workplace sexual harassment and outline procedures for filing complaints, investigating sexual harassment claims, and issuing appropriate disciplinary measures in the case of violations.

POLICY

The Guam Memorial Hospital Authority (GMHA) is committed to providing a safe and harassment-free environment for everyone who enters its doors. The GMHA will treat all incidents seriously and promptly investigate all allegations of sexual harassment. The appropriate actions will be taken against a person(s) in violation of this policy, up to and including termination from employment or of contract and/or reporting to the authorities.

The Guam Memorial Hospital Authority expects for everyone to be treated with the highest degree of dignity and respect.

SCOPE

This policy applies to all classified, unclassified, contractual, temporary, and other non-classified employees, independent contractors, students, and volunteers.

This policy applies to harassment both on and off the premises and during or outside work hours.

DEFINING SEXUAL HARASSMENT

Sexual harassment: is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: a) submission to such conduct either explicitly or implicitly affects an individual's employment; b) it unreasonably interferes with an individual's work performance; or c) creates an intimidating, hostile or offensive work environment. It can occur in a variety of circumstances, including but not limited to:

- The victim, as well as the harasser, may be of the same or opposite sex.
- The harasser can be the victim's supervisor, an agent of the hospital, a supervisor in another area, a co-worker, or a non-employee (e.g., a patient, visitor, vendor).
- It is usually a manifestation of power and often occurs within unequal workplace relationships, for example, between a manager or supervisor and a subordinate employee.

- The victim does not have to be harassed but could be anyone affected by the offensive conduct.
- What matters is that the conduct is unwanted and unwelcome by the person against whom the behavior is directed.

Sexual harassment can be physical and psychological.

EXAMPLES OF PROHIBITED CONDUCT

Though sexual harassment encompasses a wide range of conduct, some examples of expressly prohibited conduct include the following:

- Physical assaults of a sexual nature, such as rape, sexual battery, molestation, or attempts to commit these assaults, and intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body or poking another employee's body.
- Unwelcome sexual advances, propositions or other sexual comments, such as sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience.
- Preferential treatment or promises of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee to engage in sexual activity for compensation or reward.
- Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making the performance of the employee's job more difficult because of that employee's sex.
- Sexual or discriminatory displays or publications anywhere in Guam Memorial Hospital's workplace.
- Retaliating against any person, including witnesses, counselors, and confidants of the victim for reporting sexual harassment.

RESPONDING TO CONDUCT IN VIOLATION OF POLICY

Victims and Witnesses

An individual who feels subjected to or who witnesses sexual harassment may immediately inform the harasser that the conduct is unwelcome and must stop. If the inappropriate conduct does not cease, or if the victim or witness is unable (or uncomfortable) to address the alleged harasser directly, they should report the incident to their supervisor or the Equal Employment Opportunity (EEO) Officer. It is helpful but not required to provide a written record of the date, time, and nature of the incident(s) and the names of any witnesses or involved parties.

It is essential to report all concerns of sexual harassment or inappropriate sexual conduct to the EEO Officer or a supervisor/manager as soon as possible. Management must be made aware of the situation to conduct an immediate and impartial investigation and take appropriate action to remediate or prevent the prohibited conduct from continuing.

Addressing patient-to-provider sexual harassment

Though not excuses for inappropriate behavior, a patient's state of mind may be altered due to a medical condition, medications, or a life experience. Managing patient-to-provider sexual harassment is challenging, but there are strategies you can implement to prevent or lessen the risk of sexual harassment by patients, including:

- **Assigning a chaperone**: Having someone with you provides additional physical safety and may deter a patient's perception of the intimacy of a one-to-one examination setting.
- **"In-the-moment" interventions**: Taking action the moment the harassment occurs is crucial. You can reset the behavior by saying "let's keep this professional" or "let's focus on you." If it continues, try redirecting the behavior with saying "Mr./Ms. Doe, I want you to stop touching me; that is sexual harassment."
- **Involve family**: Inform the family of the situation; often, they are able to intervene.
- **Assign a different staff**: In most cases, a patient's behavior is directed at one particular person. It may be helpful to assign a different staff to resume caring for the patient, and preferably someone the same sex as the patient.

You should remove yourself from the situation immediately if you feel physically unsafe and report it to your supervisor.

Remember to notify your supervisor of each occurrence and document it in the patient's chart as well as the actions taken.

Managers and supervisors

Managers and supervisors must deal expeditiously and fairly when they know sexual harassment within their departments has occurred, whether or not there has been a written or formal complaint. They must:

- Take all complaints or concerns of alleged or possible harassment seriously, no matter how minor the conduct is or who is involved.
- Report all incidents to the EEO Office immediately so that a prompt investigation can occur.
- Take any appropriate action to prevent retaliation or prohibited conduct from recurring during and after any investigations or complaints.

Managers and supervisors who knowingly allow or tolerate sexual harassment or retaliation, including failing to report such misconduct to the EEO office immediately, violate this policy and are subject to discipline.

Equal Employment Opportunity Office

The EEO Officer is responsible for:

1. Ensuring that both the individual filing the complaint (complainant) and the accused individual (respondent) are aware of the seriousness of a sexual harassment complaint.
2. Explaining Guam Memorial Hospital Authority's sexual harassment policy and investigation procedures to all parties involved.
3. Exploring informal means of resolving sexual harassment complaints.
4. Notifying the police if criminal activities are alleged.

5. Arranging for an investigation of the alleged harassment and the preparation of a written report.
6. Submitting a written report summarizing the results of the investigation and making recommendations to designated hospital officials.
7. Notifying the complainant and the respondent of the corrective actions to be taken.

The EEO Officer will determine if an investigation will be conducted in-house or by an external third party. An external third party will handle all complaints involving senior management at the assistant administrator level or above.

COMPLAINT RESOLUTION PROCEDURES

Complaints should be submitted as soon as possible, or the later of two (2) years, preferably in writing after an incident has occurred. The EEO Officer may assist the complainant in completing a written statement. If an employee refuses to provide information in writing, the EEO Officer will dictate the verbal complaint.

To ensure the prompt and thorough investigation of a sexual harassment complaint, the complainant should provide as much of the following information as is possible:

1. The name, department, and position of the complainant.
2. The name, department, and position of the person(s) allegedly committing harassment.
3. A description of the incident(s), including the date(s), location(s), and the presence of any witnesses.
4. The effect of the incident(s) on the complainant's ability to perform his or her job, or on other terms or conditions of his or her employment.
5. The names of other individuals who might have been subject to the same or similar harassment.
6. What, if any, steps the complainant has taken to try to stop the harassment.
7. Any other information the complainant believes to be relevant to the harassment complaint.

DISCIPLINE

Employees who violate this policy are subject to appropriate discipline. If an investigation finds this policy has been violated, the mandatory minimum discipline is a written reprimand. The discipline for very serious or repeat violations is the termination of employment or contract. A person(s) who violate this policy may also be subject to civil damages or criminal penalties.

CONFIDENTIALITY

All complaints and investigations are treated confidentially to the extent possible, and information is disclosed strictly on a need-to-know basis. The complainant's identity is usually revealed to the parties involved during the investigation. The EEO Officer takes adequate steps to ensure that the complainant is protected from retaliation during and after the investigation. All information about a sexual harassment complaint or investigation is maintained in secure files within the EEO office.

OTHER AVAILABLE PROCEDURES

The procedures available under this policy do not preempt or supersede any legal procedures or remedies otherwise available to a victim of sexual harassment under local or federal law.

Victims may choose to file charges for any form of harassment with the Equal Employment Opportunity Commission (EEOC) using its online Public Portal at <https://publicportal.eeoc.gov/Portal/Login.aspx>. However, the GMHA encourages reports to be filed internally for immediate action.

ADMINISTRATION

The Guam Memorial Hospital Authority's EEO Officer will administer this policy.

REFERENCES

- 4 GCA, Public Officers & Employees, Chapter 4, Personnel Policy and the Civil Service Commission, Article 7, Reports of Sexual
- GMHA Personnel Rules and Regulations Section 11.303, Authorized Causes for Adverse Action
- Title VII of the Civil Rights Act of 1964

RESCISSION

A-HR1200, Sexual Harassment, of the Administrative Manual made effective January 22, 2018