I. POLICY/PURPOSE

It is the policy of UPMC to maintain an environment that is free from sexual harassment or harassment based on race, color, religion, sex, genetics, sexual orientation, national origin, age, disability or military affiliation for all staff members, patients, and any other persons whom contact is made during employment at UPMC. Such harassment is forbidden and violates UPMC policy as well as state, federal and local laws.

This policy establishes the procedure by which staff members and patients can make their complaints known to appropriate administrative staff. It is a violation of UPMC policy to attempt to retaliate against a person who files a complaint of harassment. Retaliation against any staff member because he or she has reported, assisted or participated in any manner in an investigation proceeding, hearing, or lawsuit, pursuant to a harassment claim is prohibited.

II. SCOPE

Every person associated with UPMC, while on United States premises, including staff members, volunteers, contractors, physicians, students, vendors and other affiliates, is required to conform his or her behavior to this policy and to report any violation of this policy.

III. DEFINITIONS

A. Harassment on the basis of race, color, religion, sex, genetics, sexual orientation, national origin, age, disability or military affiliation.

1. Harassment on the basis of race, color, religion, sex, genetics, sexual orientation, national origin, age, disability or military affiliation constitutes discrimination in the terms, conditions, and privileges of employment and, as such, violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, the Rehabilitation Act of 1973, or Uniformed Services Employment and Re-Employment Rights Act of 1994 (USERRA) as applicable.
2. Harassment is spoken, written or physical conduct that demeans or shows hostility or hatred toward an individual because of his or her race, color, religion, sex, genetics, sexual orientation, national origin, age, disability or military affiliation, or that of his or her relatives, friends, or associates, and that:

   a. has the purpose or effect of creating an intimidating, hostile, or offensive working environment;

   b. has the purpose or effect of unreasonably interfering with an individual’s work performance; or

   c. otherwise adversely affects an individual’s employment opportunities.

3. Harassing conduct includes, but is not limited to, the following:

   a. nicknames, labels, slurs, negative stereotyping, or threatening, intimidating or hostile acts that relate to race, color, religion, sex, genetics, sexual orientation, national origin, age, disability or military affiliation; and

   b. any form of communication or graphic material that demeans or shows hostility or hatred toward an individual or group because of race, color, religion, sex, genetics, sexual orientation, national origin, age, disability or military affiliation and that is placed on walls, bulletin boards, computers, or elsewhere on the employer’s premises or circulated in the workplace.

B. Sexual harassment is an unwelcome sexual advance, request for sexual favors, or other verbal or physical contact of a sexual nature when:

   1. submission to such conduct is either made or implied as a term or condition of employment;

   2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions; or

   3. the conduct has the purpose or effect of substantially interfering with an individual’s work performance or creates a hostile or offensive work environment.
The following are examples of inappropriate behaviors which may constitute sexual harassment (this list is only intended to illustrate the kinds of conduct prohibited by this policy and is not all-inclusive):

1. improper suggestions or gestures;
2. display of pornographic, lewd, indecent, or sexually suggestive objects or pictures;
3. graphic or descriptive comments or discussions about an individual’s body or physical appearance;
4. degrading verbal or written comments, including, but not limited to, e-mail messages.
5. sexual flirtations, advances, or propositions;
6. jokes, “off-color” stories, or comments of a sexually explicit nature;
7. unwelcome and intentional physical contact which is sexual in nature, such as touching, pinching, patting, rubbing, grabbing, blocking movement, or brushing against another individual’s body,
8. perceived pressure for sexual activity,
9. questions about an individual’s sexual conduct, orientation, or preferences.

C. UPMC fully supports and complies with state regulations for Nurses on Avoidance of Sexual Exploitation.

1. Conduct defined by state regulation as a sexual violation or sexual impropriety with a patient during the course of a professional relationship violates standards of nursing conduct.
2. For a registered or licensed nurse involved in providing mental health services, the relationship which shall be deemed to exist for a period of time beginning with the first professional contact or consultation between the nurse and patient and ending 2 years after discharge from or discontinuance of services. For a patient who is a minor, a professional relationship shall be deemed to exist for 2 years or until 1 year after the age of majority, whichever is longer, after discharge from or discontinuance of services.
3. For a registered or licensed nurse not involved in providing mental health services, the relationship which shall be deemed to exist for a period of time beginning with the first professional contact or consultation between a registered nurse and a patient and ending with the patient's discharge from or discontinuance of service by the nurse or by the nurse’s employer. The administration of emergency medical treatment or transitory trauma care will not be deemed to establish a professional relationship.

4. Consent of a patient to a sexual impropriety or sexual violation cannot be a defense in a disciplinary proceeding before the Board and that a nurse who engages in conduct prohibited by the amendments is not eligible for placement into an impaired professional program under either the Professional Nursing Law or the Practical Nurse Law.

IV. RESPONSIBILITY

A. The Human Resources VP/Director will be responsible for the implementation and enforcement of this policy.

B. Management and supervisory staff of UPMC will be responsible for:

1. operating his or her function in a manner consistent with the letter and spirit of this policy,

2. taking immediate and appropriate action once he or she observes or is informed of any act of sexual harassment or harassment based on race, color, religion, sex, genetics, sexual orientation, national origin, age, disability or military affiliation after consulting with Human Resources to determine the appropriate corrective action; and

3. communicating to all staff members the provisions of this policy, including the procedure for raising issues of workplace harassment.

V. PROCEDURE FOR RAISING ISSUES OF HARASSMENT OR FILING A COMPLAINT

A. A staff member, patient, or other person who believes he or she has been sexually harassed, harassed on the basis of race, color, religion, sex, genetics, sexual orientation, national origin, age, disability or military affiliation, or has witnessed harassment or has knowledge of harassment is encouraged to promptly provide information regarding the matter to any one of the following individuals:

- the department head, clinical director or administrative representative; or
- the Human Resources VP/Director or any other professional member of the Human Resources staff with whom the staff member feels comfortable.
B. The individual to whom a complaint of harassment is made has the responsibility for reporting the complaint to the Human Resources VP/Director.

C. The Human Resources director or designee will conduct a confidential investigation and determine what corrective action, if any, is appropriate to the situation. All information regarding the investigation will be kept in confidence to the greatest extent practical and appropriate under the circumstance.

D. UPMC reserves the right to place any individual alleged to have engaged in harassing conduct in violation of this policy on unpaid suspension pending the outcome of the investigation.

E. The Human Resources director/VP will issue a written reply to the complainant with the results of the investigation.

F. Retaliation against any staff member because he or she has reported, assisted or participated in any manner in an investigation proceeding, hearing or lawsuit, pursuant to a harassment claim is prohibited.

VI. SANCTION

Violation of this policy will not be tolerated and will be subject to UPMC Policy HS-HR0704, Corrective Action and Discharge. Action appropriate to the circumstances may range from reassignment of staff members, departmental education and/or attendance at training and development courses, and/or referral to the EAP, and/or corrective action including a written warning, suspension, or termination of employment.

SIGNED: Gregory K. Peaslee
Senior Vice President UPMC, Chief Human Resources and Administrative Services Officer

ORIGINAL: June 1, 2000

APPROVALS:
Executive Staff: July 8, 2013

PRECEDE: July 27, 2012
SPONSOR: Senior Vice President UPMC, Chief Human Resources and Administrative Services Officer

* With respect to UPMC business units described in the Scope section, this policy is intended to replace individual business unit policies covering the same subject matter. In-Scope business unit policies covering the same subject matter should be pulled from all manuals.