

DISCRIMINATION/HARASSMENT POLICY

Reference Number	835
Effective Date	09/14/2015
Applies To	HR
Attachments/Forms	Attachment A : DISCRIMINATION/HARASSMENT HARASSMENT COMPLAINT FORM

I. **PURPOSE**

- A. To ensure that all employees of Salinas Valley Memorial Healthcare System (“SVMHS”) are treated fairly and equitably; to ensure that employees work in an environment that is free from any kind of unlawful harassment or discrimination; to outline the definitions and descriptions of discrimination and harassment; and to explain the complaint procedure employees should follow when they believe they have been harassed or discriminated against in any manner. SVMHS has certain clinics under its license and these clinics, while not operated by SVMHS, adhere to this policy.

II. **POLICY**

- A. Discrimination against or harassment of an applicant or employee, whether verbal, written, or physical, on the basis of any protected class, namely, sex, race, color, age, religion, ancestry, pregnancy, marital status, gender, sexual orientation, medical condition, physical or mental disability, medical condition, national origin, gender identity, political action or activity, or any other category protected by federal, state, or local law is strictly prohibited.
- B. All such discrimination and harassment in the workplace is unlawful and will not be tolerated.
- C. SVMHS will apply this policy to all personnel-related actions including, but not limited to, hiring, promotion, demotion, transfer, layoff, discharge, training and discipline. Using language or taking action that violates this policy will result in disciplinary action up to and including termination.
- D. In furtherance of our Nation’s and State’s commitment to end discrimination against qualified disabled individuals, and in accordance with the provisions of Sections 503 and 504 of the Rehabilitation Act of 1973, the Americans With Disabilities Act, and Fair Employment and Housing Act and all regulations properly issued thereunder to protect the rights of qualified disabled persons, it is SVMHS’s policy that:
- No program or activity administered by the employer shall exclude from participation, deny benefits to or subject to discrimination, any individual solely by reason of their disability. Equal employment opportunities will be extended to qualified disabled persons in all aspects of the employer-employee relationship,

DISCRIMINATION/HARASSMENT POLICY

including recruitment, hiring, upgrading, training, promotion, demotion, transfer, discipline, layoff, recall, and termination. We further affirm that we will provide reasonable accommodation to the known physical or mental limitations of an otherwise qualified disabled applicant or employee.

III. **DEFINITIONS**

A. **Discrimination**

- Discrimination occurs when an individual in a protected class is treated differently from others specifically because of the individual's protected class status.
- Examples of discrimination include, but are not limited to, the following:
 1. Denying a job to a qualified person in a protected class due to the person's protected class status while continuing to accept applications;
 2. Refusing a promotion to a qualified person in a protected class while promoting a lesser qualified person not in that protected class because of the more qualified person's protected class status;
 3. Prohibiting individuals in a protected class from participating in special training because of their protected class status while allowing individuals not in that protected class to do the same.

B. **Harassment**

- Harassment involves creating any situation or atmosphere of intimidation, hostility, or threatening of one employee by another in the manner or methods described below.
- Harassment includes, but is not limited to, the following:
 1. Written or verbal conduct, such as epithets, jokes, comments or slurs which are derogatory to a person or group of persons based upon a protected characteristic.
 2. Physical conduct, such as unwelcome touching, assault, invading another's personal space, or physical interference with movement or work, which is motivated by the targeted person's protected characteristic.
 3. Visual conduct, such as derogatory gestures, cartoons, drawings or posters which is derogatory to a person or group of persons based upon a protected characteristic.
 4. Threats or demands that another submit to any of the foregoing types of conduct, or that he or she refrain from complaining about the same, as a condition of his or her continued employment or in order to avoid some negative employment action.

DISCRIMINATION/HARASSMENT POLICY

5. Actual or threatened retaliation for having reported or threatening to report harassment, or for having cooperated with or participated in any investigation concerning harassment.
- Personal Liability
 1. Any employee, including supervisors or non-supervisory coworkers, can be held personally liable in a court of law for any type of harassment of an employee based upon an individual's protected class.
 - **Sexual Harassment**
 1. Sexual harassment is one form of unlawful discrimination and harassment. SVMHS prohibits sexual harassment, and individuals affiliated with SVMHS, regardless of gender, are strictly prohibited from sexually harassing or making improper advances toward others.
 2. Federal law defines “sexual harassment” as unwelcome and unsolicited sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - a. Submission to conduct is made either explicitly or implicitly as a term or a condition of an individual’s employment;
 - b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.
 3. California law defines “sexual harassment” as unwanted sexual advances or visual, verbal or physical conduct of a sexual nature. Sexual harassment includes but is not necessarily limited to: unwelcome or unwanted sexual advances; requests or demands for sexual favors; verbal abuse, kidding or physical contact that is sexually oriented and considered unacceptable by the target of the abuse; any type of sexually oriented conduct that interferes with another’s work performance; sexually oriented conversation or activities that create a work environment that is intimidating, hostile or offensive to an employee; as well as verbal abuse, kidding, remarks or comments that intimidate, ridicule, and maliciously demean the status of an individual’s gender.
 4. Sexual harassment also includes continuing to express sexual or social interest after being informed directly that the interest is unwelcome. It is impermissible to suggest, threaten or imply that failure to accept a request for a date or sexual intimacy, or to respond positively to an unwelcome sexual advance, will affect the career, salary or work environment or another employee.

DISCRIMINATION/HARASSMENT POLICY

5. For example, it is forbidden either to imply or actually withhold support for a promotion, or change of assignment, or suggest that a poor performance report will be given because an employee has declined such a personal proposition.
6. Offering benefits, such as promotions, favorable performance evaluations, or favorable shifts in exchange for sexual favors is also forbidden.
7. It is unlawful for males to sexually harass females or other males, and for females to sexually harass males or other females. Sexual harassment on the job is unlawful whether it involves coworker sexual harassment, harassment by a supervisor or manager, or by persons doing business with or for SVMHS.
8. SVMHS will take all reasonable steps to prevent or eliminate harassment by non-employees who are likely to have workplace contact with SVMHS's employees, including patients and suppliers.

IV. PROCEDURE

- A. Complaint Procedure for Claims of Discrimination, Harassment, and/or Retaliation
 - If you believe that you have been discriminated against or harassed in any manner, or if you believe you have been retaliated against, you should proceed as follows:
 1. Report the incident to your supervisor or, if the supervisor is the one you believe has discriminated against or harassed you, to the Senior Administrative Director of Human Resources or his/her designee. If you do not report the discrimination or harassment, it cannot be investigated. There will be no retaliation against you by management because you make a complaint of discrimination or harassment.
 2. The person to whom you report the incident will investigate your allegations. The investigation will include, but not be limited to, interviewing the complaining party, supervisors and any other personnel who may have related information, to obtain sufficient facts upon which to make a determination.
 3. If, at the conclusion of the investigation, it is found that discrimination or harassment of any kind has, in fact, occurred, the Senior Administrative Director of Human Resources or his/her designee will report the finding along with a recommendation to the appropriate management representative.
 4. The Senior Administrative Director of Human Resources or his/her designee will advise the employee in the presence of his/her supervisor (unless that is whom the complaint is against) as to the final disposition of the complaint.
 5. Every effort will be made to expedite resolution of each complaint.
 6. Should you have any questions about this Discrimination/Harassment Policy or the procedure for filing a complaint (Reference, Discrimination/Harassment

DISCRIMINATION/HARASSMENT POLICY

Investigation Complaint form on Page 9), please contact the Senior Administrative Director of Human Resources/designee at extension 1759.

- Legal Remedies and Complaint Process
 1. In the event that you are dissatisfied with the action taken by the Hospital, you have the right to file a formal discrimination or harassment complaint with the Equal Employment Opportunity Commission or the California Department of Fair Employment and Housing. Those agencies investigate and prosecute complaints of prohibited harassment in employment. If you believe you have been harassed or discriminated against or that you have been retaliated against for resisting or complaining, you may file a complaint with the appropriate agency in addition to exhausting the above complaint procedure. Those agencies may be reached as follows:

Equal Employment Opportunity Commission, San Jose Local Office
96 North 3rd Street, Suite 200
San Jose, CA 95112
Telephone: 800-669-4000

Department of Fair Employment and Housing
2570 North 1st Street, Suite 480
San Jose, CA 95131
Telephone: 408-325-0344

- Protection Against Retaliation
 1. There will be no retaliation by management against anyone for opposing any practices prohibited by law or for filing a complaint with, or otherwise participating in an investigation, proceeding or hearing conducted by the Hospital or Federal or State agencies charged with investigating allegations of discrimination or harassment.

V. EDUCATION/TRAINING

- A. General Orientation
- B. The Human Resources and Education Departments coordinate training for the Discrimination/Harassment Policy.
- C. All directors, managers or supervisors shall attend two hours of sexual harassment training every two years. Newly hired or promoted directors, managers or supervisors shall attend two hours of sexual harassment training within six months of their date of hire or promotion and then every two years following the initial training.

VI. DOCUMENTATION

DISCRIMINATION/HARASSMENT POLICY

- A. Discrimination/Harassment Complaint form - see page 9

VII. **REFERENCES**

- A. The Joint Commission - Section EC.2.10
- B. Sections 503 and 504 of the Rehabilitation Act of 1973

DISCRIMINATION/HARASSMENT POLICY

ATTACHMENT A

DISCRIMINATION/HARASSMENT HARASSMENT COMPLAINT FORM

Salinas Valley Memorial Healthcare System maintains a policy that all of its employees should be free from discrimination and harassment. As part of that policy, we are committed to investigating claims of such discrimination and harassment, and taking appropriate disciplinary or other actions when the facts show that discrimination or harassment has occurred. In order that we may conduct an investigation of your concerns, please complete the form below.

Name (Please Print)

Date

I wish to complain about the following event(s):

(Use additional sheets of paper as required)

I understand that Salinas Valley Memorial Healthcare System will be conducting an investigation of my complaint. I authorize Salinas Valley Memorial Healthcare System to disclose to others portions of the information I have provided it and in the future may provide with respect to that complaint, insofar as Salinas Valley Memorial Healthcare System feels it must release that information in order to conduct a complete investigation.

Should you NOT wish Salinas Valley Memorial Healthcare System to disclose certain information you have provided, please specify that information below.

I acknowledge that I have read and understand the above statements.

Printed Name

Signature of Employee

Date