

**WEST MICHIGAN COMMUNITY MENTAL HEALTH SYSTEM
ADMINISTRATIVE MANUAL**

		Chapter: 4	Section: 3	Subject: 1
CHAPTER: Personnel Administration				
SECTION: Discrimination-Free and Harassment-Free Workplace				
SUBJECT: General Policy				
Administrative Approval:		Date of Governing Board Action:		Page 1 of 7
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- I. **PURPOSE:** To define WMCMHS' position regarding discrimination and harassment, to maintain a working environment that is free of discrimination and harassment, and to communicate the consequences of a substantiated discrimination or harassment complaint.
- II. **APPLICATION:** All staff members, independent contractors, vendors, customers, and visitors of WMCMHS.
- III. **REQUIRED BY:** Title VII of the Civil Rights Act of 1964; Age Discrimination in Employment Act; Americans with Disabilities Act; and Michigan Elliott-Larsen Civil Rights Act
- IV. **DEFINITIONS:**

Staff members – All employees, students, interns, and volunteers at WMCMHS.

Independent Contractors – Those people hired to perform work at WMCMHS facilities, but who are not considered employees of the Agency. Examples of independent contractors include but are not limited to a carpenter making a repair to the building or a mental health clinician hired under a time-limited grant to deliver specific skills or complete a specific project.

Vendors – Those on the premises of WMCMHS for the purpose of selling a product or service. Examples of vendors include but are not limited to the following: a prescription drug company representative or Federal Express delivery person.

Customers – Those persons seeking the services of WMCMHS.

Visitors – All other persons who come on to the premises of WMCMHS for any other reason not related to employment, service or product delivery, or to seek services.

WMCMHS Property – This includes all WMCMHS owned or leased buildings and properties, as well as motor vehicles.

Discrimination – Unfair treatment of a person based on prejudice.

Harassment – Verbal or physical conduct designed to threaten, intimidate, or coerce another person.

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V. **POLICY**: WCMCHS fully supports and complies with the laws, which are enacted to protect and safeguard the rights and opportunities of all people to seek, obtain, and hold employment without being subjected or exposed to illegal harassment or discrimination in the workplace. WCMCHS requires the reporting of all perceived incidents of discrimination or harassment through the appropriate channels. It is the policy of WCMCHS to conduct a thorough and confidential investigation into such reported matters. WCMCHS prohibits retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports. Substantiated discrimination or harassment allegations will result in WCMCHS providing an appropriate remedy to the situation, which may include disciplinary action for the perpetrator(s) up to and including termination of association with WCMCHS.

VI. **PROCEDURES**:

A. Prohibited Conduct Under This Policy

1. **Discrimination**: It is a violation of this policy to discriminate in the provision of employment opportunities, benefits or privileges, to create discriminatory work conditions, or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's race, color, national origin, age, religion, disability status, gender, sexual orientation, or marital status.
2. **Harassment**: This policy prohibits harassment of any kind – verbal or nonverbal. Examples of verbal harassment include but are not limited to: comments which are not flattering regarding a person's nationality, origin, race, color, religion, gender, sexual orientation, age, physical disability or appearance, marital or other protected status; epithets, slurs, or negative stereotyping. Examples of nonverbal harassment include but are not limited to: distribution, display, or discussion or any written or graphic material that ridicules, denigrates, insults, belittles, or shows hostility or aversion toward an individual or group because of national origin, race, color, religion, age, gender, sexual orientation, physical disability or appearance, marital or other protected status.
3. **Sexual Harassment**: This policy prohibits sexual harassment, which is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when such conduct:
 - a. Is made explicitly or implicitly a term or condition of employment, or
 - b. Is used as a basis for an employment decision, or

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- c. Unreasonably interferes with an employee’s work performance or creates an intimidating, hostile, or otherwise offensive environment.

Sexual harassment does not refer to behavior or occasional compliments of a socially acceptable nature. Examples of conduct that may constitute sexual harassment are:

- a. Verbal: sexual innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks, threats. Requests for any type of sexual favor (this includes repeated, unwelcome requests for dates).
- b. Nonverbal: distribution, display, or discussion of any written or graphic material, including calendars, posters, and cartoons that are sexually suggestive, or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters and notes, facsimiles, e-mail, intranet sites, that is sexual in nature.
- c. Physical: unwelcome, unwanted physical contact, including, but not limited to: touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, forced sexual intercourse or assault.

Types of Sexual Harassment:

- a. “Quid pro quo” – This type is where submission to harassment is used as the basis for employment decisions. (Employee benefits such as raises, promotions, better working hours, etc. are directly linked to compliance with sexual advances.)
 - b. “Hostile work environment” – This type is where harassment creates an offensive and unpleasant working environment. Hostile work environment can be created by anyone in the work environment including peers, supervisors or managers, customers, vendors, independent contractors, visitors, etc.
4. Consensual Sexual Relationships: WMCMHS prohibits romantic or sexual relationships between management or supervisory staff and their staff members (a staff member who reports directly or indirectly to the management or supervisory staff person) because such relationships tend to create compromising conflicts of interest or the appearance of such conflicts.

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B. The Complaint Process

WCMCMHS provides a complaint process for those who feel that have been subjected to discrimination or harassment. These allegations will be investigated swiftly, thoroughly, and as confidentially as possible.

1. Before Filing a Complaint:

- a. WCMCMHS wishes to create a safe environment in which individuals are not afraid to discuss concerns and complaints, or to seek general information about discrimination, harassment, and retaliation. It is understood that individuals may be concerned about the confidentiality of information they share, and WCMCMHS will strive to preserve confidentiality to the fullest extent possible.
- b. WCMCMHS's Employee Assistance Program (EAP) provides confidential counseling to staff members. Staff members wishing to discuss confidentially an incident of possible discrimination, harassment, or retaliation, or persons seeking information and advice without committing to future action, are encouraged to contact the EAP. The role of the EAP in such cases will be limited to personal counseling and treatment of the person who is then considered an EAP client.
- c. Discussions for the purpose of obtaining general information or advice with WCMCMHS management staff may remain confidential. No action will be taken when individuals wish only to make inquiry, so long as they do not disclose any identifying information about themselves or the person accused.
- d. The anonymity described cannot always be maintained if the individual shares identifying information and / or wishes to have WCMCMHS take some corrective or disciplinary action in a particular case. WCMCMHS is legally obligated to take action once it is informed that discrimination, harassment, or retaliation has occurred or may be occurring. Complete confidentiality cannot be guaranteed in such as case, but information will be shared only with those with a need to know.

2. During the Complaint Process:

- a. Once an individual discloses identifying information, and such information is sufficiently complete and specific to state a claim of discrimination, harassment, or retaliation, he or she will be considered to have filed a complaint.
- b. WCMCMHS will take prompt responsive action upon receipt of the complaint. The expressed wishes of the complainant for confidentiality

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will be considered in the context of WMCMHS' legal obligation to act upon the allegation and the right of the charged party to obtain information. In most cases, confidentiality will be strictly maintained by WMCMHS and those involved in the investigation.

3. Complaint Procedure

- a. A person who feels harassed, discriminated or retaliated against may initiate the complaint process by contacting their Team Leader, the Deputy Director of their area, or the Human Resources Coordinator. All complaints filed with Team Leaders or Deputy Directors must be reported immediately to the Human Resources Coordinator.
- b. An investigation will be undertaken.
 1. The first step in this process is an interview of the complainant(s) and the completion of a written allegation by the Human Resources Coordinator. The complainant will be asked to sign and date the allegation report once it is deemed accurate.
 2. Witnesses, if any, will be contacted, interviewed, and directed to maintain the confidentiality of the situation. A written report of all witness accounts will be produced by the Human Resources Coordinator and the witness will be asked to sign and date the report once it is deemed accurate.
 3. Substantiating materials or documents will be gathered, initialed and dated by the submitting party, and will become a part of the investigation file.
 4. The person(s) alleged to have harassed, discriminated, or retaliated against another or others will also be interviewed and the Human Resources Coordinator will develop a written statement. Once this statement is deemed accurate, the individual(s) will be asked to sign and date the document.
 5. Legal counsel may be consulted during the investigation process.
- c. Based on all submissions during the investigation, the Human Resources Coordinator will determine if there is a reasonable basis for substantiating the complaint and the violation of this policy. If substantiated, corrective or disciplinary action for the perpetrator and remedy(s) for the complainant will be recommended to the Executive Team for review and action. If the investigation is inconclusive or it is determined that there has been no discrimination, harassment, or retaliation in violation of this policy, but some potentially problematic

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conduct is revealed, preventative action may be taken in the form of education and training.

- d. The Executive Director will make the final decision on whether the policy has been violated and what the consequences for such violation shall be. The Executive Director, if appropriate, will also determine remedies for the complainant.
- e. Following the determination of the Executive Director, the Human Resources Coordinator will meet separately with the complainant and the perpetrator or alleged perpetrator in order to notify them in person of the findings of the investigation and to inform them of the action, if any, that will be taken.
- f. The complaint, investigation notes, documents, and final determination report will be maintained in a confidential file in the office of the Human Resources Coordinator.

C. Sanctions

- 1. If there is a substantiation of the claim of harassment, discrimination, or retaliation, sanctions will be applied. These sanctions will be dependent on the severity of the incident(s) and may range from training and education, mandatory EAP counseling, to suspension, demotion, or termination of the relationship with WMCMHS.
- 2. Filing groundless and malicious complaints will be considered an abuse of this policy and is prohibited. Corrective or disciplinary action will be taken as appropriate.
- 3. Any disciplinary action taken will be filed in the personnel file of the party(s) disciplined.
- 4. Nothing in this policy shall prevent the complainant(s) or the alleged perpetrator from pursuing formal legal remedies or resolution through state or federal agencies or the courts.

D. Retaliation: No hardship, no loss or benefit, and no penalty may be imposed on a staff member as punishment for filing or responding to a bona fide complaint of harassment, discrimination, or retaliation; appearing as a witness in the investigation of such a complaint; or, serving as an investigator. Retaliation or attempted retaliation is a violation of this policy and anyone who does so will be subject to investigation, and if substantiated, severe sanctions up to and including termination.

VII. **SUPPORTING DOCUMENTS:** Not Applicable.

