



STATE OF MICHIGAN  
DEPARTMENT OF COMMUNITY HEALTH  
**POLICY AND PROCEDURE MANUAL**  
*POLICY AND PROCEDURE*

**CHAPTER**

Human Resources

**NUMBER**

4.1.13

**EFFECTIVE DATE**

September 18, 2006

**SUBJECT**

Discriminatory Harassment

Page 1 of 13

**A. PURPOSE**

The purpose of this policy and procedure is to prohibit discriminatory harassment and to provide direction and guidance to employees, on-site contractual staff, supervisors, managers, and executive staff in addressing and reporting discriminatory harassment. Employees are expected to comply with the requirements of this policy and embrace the following principles with respect to the Michigan Department of Community Health's (DCH) values:

1. Support a work environment free from harassment, discrimination, or other inappropriate behaviors that may cause an employee to feel uncomfortable and/or substantially interfere with their ability to work,
2. Nurture an awareness, acceptance, and appreciation of diversity in the workforce, and
3. Promote a positive attitude of cooperation in our work environments toward the provision of services.

**B. REVISION HISTORY**

Issued: September 18, 2006  
Revised: June 16, 2008  
Revised: September 8, 2008  
Revised: January 31, 2014

**C. DEFINITIONS**

**Equal Employment Opportunity (EEO) Officer:** refers to the EEO Officer located in Central Office who is responsible for the Discriminatory Harassment process for the entire department.

**Harassment Coordinator:** refers to the employee designated at each hospital/center as the point of contact for the staff at that worksite who wants to inquire or file a complaint.

**Complainant:** employee or individual who alleges they are the subject of, or a witness to, discriminatory harassment.

**Accused:** employee or individual who allegedly committed the discriminatory behavior.

**On-site Contractual Staff:** employees of an independent contractor generally working on-site at the Michigan Department of Community Health and under the direction/management of the DCH contract/project managers.

**Disability:** actual or "regarded as" having a disability as defined in the Americans with Disabilities Act Amendment Act of 2008, as amended.

**Genetic Information:** includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family members (i.e., family medical history).

|   |  |                       |
|---|--|-----------------------|
|  | <b>STATE OF MICHIGAN</b><br><b>DEPARTMENT OF COMMUNITY HEALTH</b><br><b>POLICY AND PROCEDURE MANUAL</b><br><i>POLICY AND PROCEDURE</i> | <b>CHAPTER</b>        |
|   |  | Human Resources       |
|   |  | <b>NUMBER</b>         |
|   |  | 4.1.13                |
|   |  | <b>EFFECTIVE DATE</b> |
|   |  | September 18, 2006    |
| <b>SUBJECT</b>  |  |                       |
| Discriminatory Harassment   |  | Page 2 of 13          |

**Sexual orientation:** means actual or imputed heterosexuality, homosexuality, or bisexuality.

**Color:** means the actual color/shade of your skin (i.e., dark, light).

**Retaliation:** means being treated differently, in a negative manner, as a result of being involved in a Discriminatory Harassment Complaint process.

**Intent:** The act of knowingly engaging in a behavior with an intended result of creating an offensive, intimidating or hostile work environment.

**Impact:** behavior that has the effect of discrimination or discriminatory behavior. The impact refers to the ways in which a person (or persons) is negatively impacted by another individual's action.

**Sexual Harassment:** unwelcome sexual advances, requests for sexual favors, and other verbal, non-verbal, visual or physical conduct of a sexual nature. Sexual Harassment falls under the Sex protected factor.

The following are examples may constitute sexual harassment:

- Sexually suggestive physical contact or behavior, such as grabbing, groping, kissing, fondling, rubbing or massaging someone's neck or shoulders; stroking someone's hair; unwelcome leering, whistling, pinching, or brushing against the body; suggestive, insulting, or obscene comments or gestures;
- The display in the workplace of sexually suggestive or explicit objects, pictures, posters or cartoons including, but not limited to, offensive electronic communications or voicemail messages; or access to pornographic images through the Internet or email;
- Verbal abuse of a sexual nature including foul or obscene language; lewd, off-color, sexually oriented comments or sexual jokes; or any graphic verbal commentary about an individual's body.

**Discriminatory Harassment:** unwelcome advances, requests for favors, and other verbal or physical conduct or communication based on religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability, or genetic information under any of the following conditions (two categories):

1. Quid Pro Quo:
  - a. Submission to the conduct or communication is made a term or condition, either explicitly or implicitly, to obtain employment.
  - b. Submission to or rejection of the conduct or communication by a person is used as a factor in decisions affecting the individual's employment.
2. Hostile Work Environment:
  - c. The conduct or communication has the purpose or effect of substantially interfering with the individual's employment or creating an intimidating, hostile, or offensive employment environment.

**Inappropriate Conduct:** involves behaviors that may be hostile, threatening, intimidating, or offensive, but may happen only **once**. Harassment, by its very nature, is repetitive behavior. The following examples



STATE OF MICHIGAN  
DEPARTMENT OF COMMUNITY HEALTH  
**POLICY AND PROCEDURE MANUAL**  
*POLICY AND PROCEDURE*

**CHAPTER**

Human Resources

**NUMBER**

4.1.13

**EFFECTIVE DATE**

September 18, 2006

**SUBJECT**

Discriminatory Harassment

Page 3 of 13

of behaviors may not rise to the level of harassment, however, they are unacceptable in the workplace and will not be tolerated and will be immediately addressed:

1. Employees shall not, either explicitly or implicitly, ridicule, mock, deride, belittle, intimidate, bully, or threaten any employee, customer, or a member of the general public based on religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability, or genetic information.
2. Employees shall not make offensive or derogatory comments to any other employee, customer, or member of the general public, either directly or indirectly, based on religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability, or genetic information.
3. Employees shall not engage in any conduct that may create a hostile, offensive, threatening, and/or intimidating work environment.
4. The following behaviors, though not all inclusive, are examples of conduct that is unacceptable and will not be tolerated:
  - a. Sexual advances, sexual harassment, propositions or innuendo,
  - b. Comments or behaviors which promise benefits for sexual favors,
  - c. Touching of a sexual nature which includes inappropriate touching, pinching, or patting,
  - d. Comments or discussions about a person's body or body parts,
  - e. Sexual, racial, gender, or ethnic oriented jokes or slurs,
  - f. Displaying cartoons, graffiti, pinups, posters, calendars, and magazines containing pictures of men or women of a sexual nature, whether nude or partially clad in the workplace,
  - g. Displaying racial, religious, or gender biased graffiti in the workplace,
  - h. Repeated flirtations or sexual comments,
  - i. Turning work discussions into sexual topics,
  - j. Repeated insults against men or women,
  - k. Derogatory comments about a person's religion, race, gender, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability, or genetic information,
  - l. Verbal or written communications containing offensive or hostile language directed at an individual or a group, either explicitly or implicitly, based on religion, race, gender, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, disability, or genetic information, and
  - m. Downloading and/or forwarding pornographic content from the Internet. Such conduct also violates the State of Michigan Acceptable Use Policy and is strictly prohibited (see Acceptable Use Policy).

**D. POLICY**

The DCH enacts this policy to prohibit discriminatory harassment and inappropriate conduct, to promote a safe and respectful workplace for employees, and to firmly support the prevention and elimination of discriminatory harassment and inappropriate conduct in the workplace. Employees have the right to work in an environment free from all forms of harassment, discrimination, or inappropriate conduct.

|   |  |                       |
|---|--|-----------------------|
|  | <b>STATE OF MICHIGAN</b><br><b>DEPARTMENT OF COMMUNITY HEALTH</b><br><b>POLICY AND PROCEDURE MANUAL</b><br><i>POLICY AND PROCEDURE</i> | <b>CHAPTER</b>        |
|   |  | Human Resources       |
|   |  | <b>NUMBER</b>         |
|   |  | 4.1.13                |
|   |  | <b>EFFECTIVE DATE</b> |
|   |  | September 18, 2006    |
| <b>SUBJECT</b>  |  |                       |
| Discriminatory Harassment   |  | Page 4 of 13          |

DCH is an Equal Opportunity Employer and, as such, prohibits discrimination in recruitment, selection, training, promotion, retention, discipline, or any other aspect of employment where the basis of discrimination is race, color, religion, sex, national origin, age, height, weight, marital status, genetic information, disability, sexual orientation, or partisan consideration.

DCH will not limit, segregate, or classify an employee or applicant for employment in a way, which deprives or tends to deprive the employee or applicant of an employment opportunity, or otherwise adversely affects the status of an employee or applicant on the basis of discrimination described above.

Prompt and appropriate action will be taken to address internal and external complaints of discrimination.

#### **APPLICATION**

This policy applies to all DCH employees. In addition, this policy covers non-employees, including clients, customers, vendors, independent contractors, contractual staff, applicants for employment, members of the public with whom employees have contact in the course of their work, and visitors to the workplace or events sponsored or sanctioned by the department.

#### **RESPONSIBILITY OF EMPLOYEES**

1. All departmental employees including on-site contractual staff are prohibited from engaging in discriminatory harassment and inappropriate conduct. All departmental employees including contractual staff are responsible for assuring that inappropriate conduct or discriminatory harassment behavior does not occur by conducting themselves in an appropriate manner.
2. Employees are expected to take reasonable care to avoid harm to them by telling the harasser to stop the unwelcome behavior and/or report the unwelcome behavior to a supervisor, higher level of authority, Harassment Coordinator, or the EEO Officer.
3. Managers and supervisors are responsible for fostering and maintaining a work environment free of discrimination, harassment, and inappropriate conduct. They must also promptly address and put a stop to all discriminatory and inappropriate behaviors that they become aware of, even if no employee has complained about the behavior.
4. A manager or supervisor, who tolerates sexually offensive conduct or comments in the workplace, even in the absence of the employee who would be offended by the conduct, may be guilty of fostering a hostile or offensive work environment. A supervisor cannot allow, nor tolerate, offensive conduct or comments in the workplace; the tolerance may serve to further encourage subordinates to engage in more of the same, and possibly worse, conduct.
5. The department's EEO Officer may be consulted when an employee, manager, or supervisor is unsure whether the allegation involves discriminatory harassment.

#### **REPORTING REQUIREMENTS**

1. Employees – An employee is obligated to report to management, in writing, if either of the following circumstances exist:

|   |  |                       |
|---|--|-----------------------|
|  | <b>STATE OF MICHIGAN</b><br><b>DEPARTMENT OF COMMUNITY HEALTH</b><br><b>POLICY AND PROCEDURE MANUAL</b><br><i>POLICY AND PROCEDURE</i> | <b>CHAPTER</b>        |
|   |  | Human Resources       |
|   |  | <b>NUMBER</b>         |
|   |  | 4.1.13                |
|   |  | <b>EFFECTIVE DATE</b> |
|   |  | September 18, 2006    |
| <b>SUBJECT</b>  |  |                       |
| Discriminatory Harassment   |  | Page 5 of 13          |

- a. The employee is subjected to unwanted discriminatory harassment in the workplace by a supervisor, manager, co-worker, or other person, or
  - b. The employee witnesses a supervisor, manager, co-worker, or other person in the workplace engaging in discriminatory harassment of another person.
2. On-Site Contractual staff are obligated to report to their contract agency and DCH management in the event such conduct occurs in the above a or b.
  3. Complaints involving on-site contractual staff will be handled by the DCH EEO Officer in a separate complaint process.(see attachment 1).
  4. Supervisors and managers – A supervisor or manager who witnesses or is informed of a subordinate employee engaging in discriminatory harassment of an employee or a non-employee who conducts business with this agency, is obligated to report the incident to the EEO Officer or Harassment Coordinator as soon as possible.
  5. Each manager or supervisor shall ensure that the Discriminatory Harassment Poster or EEO posting is posted in their respective work areas, which advises employees of information regarding discriminatory harassment along with the name and contact information for the EEO Officer and/or Harassment Coordinator.
  6. Complaints should be made in writing by using the Discriminatory Harassment Complaint Form DCH-1012(E). **NOTE:** Any type of written document or verbal communication alleging Discriminatory Harassment will be processed as a Discriminatory Harassment Complaint and may be followed up by DCH-1012(E) form being completed.
  7. The complainant is required to sign the complaint form verifying its accuracy.
  8. If the Hospital/ Center or Human Resources staff is the accused or the complaint is regarding a Human Resource function (i.e., selection process, disciplinary action), the complaint **shall** be filed directly with the EEO Officer in Central Office.
  9. Confidentiality shall be maintained to the extent possible and as practicable to conduct a thorough investigation.
  10. The responsible party is required to follow up on the recommendations in the investigative report or, if the issue doesn't meet the criteria for an investigation, it may still be necessary to meet with labor relations staff.

#### **COMPLAINT FILING OPTIONS**

An employee may file:

1. An internal complaint with DCH,
2. A grievance through their union,
3. An external complaint with the Michigan Department of Civil Rights, or
4. An external complaint with the U.S. Equal Employment Opportunity Commission.



**STATE OF MICHIGAN**  
**DEPARTMENT OF COMMUNITY HEALTH**  
**POLICY AND PROCEDURE MANUAL**  
*POLICY AND PROCEDURE*

|                           |
|---------------------------|
| <b>CHAPTER</b>            |
| Human Resources           |
| <b>NUMBER</b>             |
| 4.1.13                    |
| <b>EFFECTIVE DATE</b>     |
| September 18, 2006        |
| <b>SUBJECT</b>            |
| Discriminatory Harassment |
| Page 6 of 13              |

Questions about filing deadlines and/or other procedures should be directed to the respective investigative agency.

**REPORTING TIMEFRAME**

The following timelines must be met to ensure an accurate and fair investigation:

- DCH requires reporting within 180 days after the alleged harassment.
- Michigan Department of Civil Rights requires reporting within 180 calendar days after the alleged harassment.
- U.S. Equal Employment Opportunity Commission (EEOC) requires reporting within 300 days after the alleged harassment.
- Check your collective bargaining agreement for specific timeframes for filing grievances.
- Time limitations for filing a grievance imposed by a negotiated contract or the Civil Service grievance procedure are protected until a finding of fact is reached by the EEO Officer.

**E. PROCEDURE**

**CENTRAL OFFICE**

| <i>Responsibility</i> | <i>Action</i>   |
|-----------------------|---|
| Employee              | Completes Internal Complaint Form DCH-1012 (E) and provides the information requested as well as any additional documentation related to the incident(s) as follows: <ol style="list-style-type: none"> <li>1. Specific details as to what happened,</li> <li>2. Whom was directly or indirectly involved,</li> <li>3. When the incident(s) occurred (date and time),</li> <li>4. Witnesses to the event(s) (not hearsay),</li> <li>5. Documents or other evidence that may be useful to the investigation,</li> <li>6. Why the complainant believes that their protected status (i.e., race, gender, age, etc.) is the reason for the adverse actions(s) or conduct,</li> <li>7. How the treatment of the complainant differs</li> </ol> |



**STATE OF MICHIGAN**  
**DEPARTMENT OF COMMUNITY HEALTH**  
**POLICY AND PROCEDURE MANUAL**  
*POLICY AND PROCEDURE*

|                       |
|-----------------------|
| <b>CHAPTER</b>        |
| Human Resources       |
| <b>NUMBER</b>         |
| 4.1.13                |
| <b>EFFECTIVE DATE</b> |
| September 18, 2006    |

|                           |
|---------------------------|
| <b>SUBJECT</b>            |
| Discriminatory Harassment |
| Page 7 of 13              |

|                    |   |
|--------------------|---|
|                    | <p>from the treatment of other similarly situated employees that do not share the complainants protected status, and</p> <p>8. What the complainant is seeking as a remedy to the situation.</p>  |
| <p>EEO Officer</p> | <ol style="list-style-type: none"> <li>1. Receives complaint.</li> <li>2. Meets with the employee to gather additional information, if needed, and to assure that all needed information is provided with the complaint. All of the information provided will assist in determining if the issue is a discriminatory harassment, employee relations or a grievance issue.</li> <li>3. Reviews the complaint to determine if the issue meets the definition of discriminatory harassment and if the incident falls within the 180-day time frame.</li> <li>4. Notifies the complainant in writing whether or not the complaint will be investigated.</li> <li>5. May confer with the line supervisor of the employee(s), the Office of Human Resources, Labor Relations Section, or other appropriate personnel to resolve workplace situations that do not rise to the level of discriminatory harassment.</li> <li>6. Interviews the employee, the alleged perpetrator(s), and witness(es) to the incident(s).</li> <li>7. Prepares a report containing the results of the information gathered, the disposition of the complaint and recommend steps to properly address the issue(s) or concern(s) based on the findings.</li> <li>8. Notify the complainant, the accused, and appropriate management staff of the outcome of the investigation.</li> <li>9. The complainant and the accused will receive</li> </ol> |



STATE OF MICHIGAN  
DEPARTMENT OF COMMUNITY HEALTH  
**POLICY AND PROCEDURE MANUAL**  
*POLICY AND PROCEDURE*

|                       |
|-----------------------|
| <b>CHAPTER</b>        |
| Human Resources       |
| <b>NUMBER</b>         |
| 4.1.13                |
| <b>EFFECTIVE DATE</b> |
| September 18, 2006    |

|                           |
|---------------------------|
| <b>SUBJECT</b>            |
| Discriminatory Harassment |
| Page 8 of 13              |

|  |  |
|--|--|
|  | <p>a written notice of disposition informing them of the results of the investigation.</p> <p>10. Forwards a copy of the investigative report to Human Resources/Labor Relations Section for appropriate disciplinary action, and provides appropriate documentation, if applicable.</p> <p>11. The EEO Officer will attend any disciplinary conference that is a result of a substantiation of discriminatory harassment.</p> |
| EEO Officer and the Supervisor of the area where the investigation occurred. | Follow through with recommendations in the investigative report.   |

**HOSPITALS/CENTERS**

| <i><b>Responsibility:</b></i>   | <i><b>Action:</b></i>  |
|---|--|
| Employee  | <p>Completes Internal Complaint Form DCH-1012(E) and provides the information requested, as well as any additional documentation related to the incident(s) as follows:</p> <ol style="list-style-type: none"> <li>1. Specific details as to what happened,</li> <li>2. Whom was directly or indirectly involved,</li> <li>3. When the incident(s) occurred (date and time),</li> <li>4. Witnesses to the event(s) (not hearsay),</li> <li>5. Documents or other evidence that may be useful to the investigation,</li> <li>6. Why the complainant believes that their protected status (i.e., race, gender, age, etc.) is the reason for the adverse actions(s) or conduct, and</li> <li>7. How the treatment of the complainant differs from the treatment of other similarly situated employees that do not share the complainants protected status.</li> </ol> |
| <p><b>NOTE:</b> If the complaint is against the Hospital/Center Director, Human Resources staff, or HR function, forward the complaint directly to the EEO Officer.</p> |  |



STATE OF MICHIGAN  
DEPARTMENT OF COMMUNITY HEALTH  
**POLICY AND PROCEDURE MANUAL**  
*POLICY AND PROCEDURE*

**CHAPTER**

Human Resources

**NUMBER**

4.1.13

**EFFECTIVE DATE**

September 18, 2006

**SUBJECT**

Discriminatory Harassment

Page 9 of 13

|  |  |
|--|--|
| <p>Hospital/Center Director or Designee</p>  | <ol style="list-style-type: none"> <li>1. Receives complaint.</li> <li>2. Immediately forwards a copy of the complaint to the EEO Officer.</li> <li>3. Meets with the employee to gather additional information, if needed, and to assure that all needed information is provided with the complaint. All of the information provided will assist in determining if the issue is a discriminatory harassment, employee relations, or a grievance issue.</li> </ol>   |
| <p>Hospital/Center Director or Designee</p>  | <ol style="list-style-type: none"> <li>1. Reviews the complaint to determine if the issue meets the definition of discriminatory harassment and if the incident falls within the 180-day time frame.</li> <li>2. Informs the EEO Officer of the complaint and the decision to accept or reject the complaint, prior to notifying the complainant.</li> <li>3. Notifies the complainant in writing whether or not the complaint will be investigated.</li> <li>4. Assigns the complaint for investigation, if warranted.</li> <li>5. Administratively address workplace situations that do not rise to the level of discriminatory harassment.</li> </ol> |
| <p>Investigator</p> <p><b>NOTE:</b> The EEO Officer or Appointing Authority will determine the EEO Officer's level of involvement in the investigation such as the EEO Officer conducting the investigation or conducting a joint investigation with the investigator.</p> | <ol style="list-style-type: none"> <li>1. Interviews the employee, the alleged perpetrator(s), and witness(es) to the incident(s) and other individuals relevant to the investigation.</li> <li>2. Prepares a report containing the results of the information gathered, the disposition of the complaint, and recommend steps to properly address the issue(s) based on the findings.</li> <li>3. Send the report to the Hospital/Center Director or designee and the EEO Officer.</li> </ol>   |
| <p>Hospital/Center Director or Designee</p>  | <ol style="list-style-type: none"> <li>1. Notify the complainant, the accused, and appropriate management staff of the outcome</li> </ol>  |



**STATE OF MICHIGAN**  
**DEPARTMENT OF COMMUNITY HEALTH**  
**POLICY AND PROCEDURE MANUAL**  
*POLICY AND PROCEDURE*

|                           |
|---------------------------|
| <b>CHAPTER</b>            |
| Human Resources           |
| <b>NUMBER</b>             |
| 4.1.13                    |
| <b>EFFECTIVE DATE</b>     |
| September 18, 2006        |
| <b>SUBJECT</b>            |
| Discriminatory Harassment |
| Page 10 of 13             |

|  |   |
|--|---|
|  | <p>of the investigation.</p> <ol style="list-style-type: none"> <li>2. Sends the complainant and the accused a written notice of disposition informing them of the results of the investigation.</li> <li>3. Forwards a copy of the investigative report to Human Resources/Labor Relations Section for appropriate disciplinary action and provides appropriate documentation, if applicable. The EEO Officer provides input on determining appropriate disciplinary action.</li> <li>4. If the investigation was conducted by the EEO Officer and resulted in substantiation, the EEO Officer will attend the disciplinary conference.</li> <li>5. Decide on appropriate administrative action.</li> <li>6. Responsible for the follow-through on the recommendations.</li> </ol> |
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**INTENT AND IMPACT**

The focus of the investigation is on the actual behavior and how that behavior affected or influenced other people, regardless of the intent. The intent of the behavior is considered but the impact of the behavior is most important when determining the outcome of the investigation.

**EXTERNAL COMPLAINTS**

The EEO Officer will respond to the U.S. Equal Employment Opportunity Commission (EEOC) and Michigan Department of Civil Rights (MDCR) complaints and handle the entire complaint process.

The EEO Officer may dismiss an internal complaint if an EEOC and/or MDCR complaint is filed concerning the same matter prior to the completion/disposition of the internal investigation.

**RECORD KEEPING**

- The official case file for Central Office complaints/ investigations and a copy of the complete file from the Hospitals/Centers will be kept in Central Office.
- The official case file for the Hospital/Centers complaints/investigations will be kept at their perspective worksites with the Directors. Exception: If the Hospital/Center Director or Human Resources staff is the accused, these files will be kept in Central Office. No copies of case files



STATE OF MICHIGAN  
DEPARTMENT OF COMMUNITY HEALTH  
**POLICY AND PROCEDURE MANUAL**  
*POLICY AND PROCEDURE*

**CHAPTER**

Human Resources

**NUMBER**

4.1.13

**EFFECTIVE DATE**

September 18, 2006

**SUBJECT**

Discriminatory Harassment

Page 11 of 13

concerning the Hospital/Center Directors or Human Resources staff will be kept at the worksites.

- The official case file will include **1)** a complaint form containing any statements from the person making the report, the alleged harasser, or witnesses; **2)** other documents supporting conclusions reached by investigator(s); **3)** relevant disciplinary reports and performance evaluations; and **4)** the final investigatory report.
- Central Office and the Hospitals/Centers shall preserve all records from all investigative steps for seven years (three years at the worksite and then four years in the archives) after the final decision is issued.
- Any requests for documents from the investigation file must be requested under the Freedom of Information Act (FOIA).

**RETALIATION**

An employee **cannot** be retaliated against for:

1. Filing an harassment complaint,
2. Making verbal statements of harassment, or
3. Cooperating in any investigation of alleged harassment (such as a witness or participating in an interview).

Examples of retaliation may include, but is not limited to, unwarranted discipline or interim ratings, denying promotional opportunity, intentionally pressuring, lying about, change in job duties without just cause, enforcing rules upon the employee such as time and attendance, and work standards that were not enforced prior to the complaint.

Retaliation of any kind is strictly prohibited. If proven, it is a work rule violation, which will result in disciplinary action.

Contact the EEO Officer if you feel that you are experiencing retaliation due to your participation in a Discriminatory Harassment Complaint process.

You may also file a Retaliation Complaint on the DCH Discriminatory Harassment Complaint Form DCH-1012(E).

**SANCTIONS**

1. Employees may be disciplined up to and including dismissal for violations of this policy.
2. Employees may be held personally liable for violations of this policy in a civil court action.
3. Managers and supervisors are required to take reasonable action to prevent and correct workplace conduct that may violate this policy. Managers and supervisors who violate this policy may be disciplined up to and including dismissal.

**THE MICHIGAN WHISTLE BLOWER PROTECTION ACT**

The Whistle Blower Protection Act states that an employer may not discharge or otherwise discriminate against an employee who reports or is about to report a violation or suspected violation of federal or state



STATE OF MICHIGAN  
DEPARTMENT OF COMMUNITY HEALTH  
POLICY AND PROCEDURE MANUAL  
POLICY AND PROCEDURE

CHAPTER

Human Resources

NUMBER

4.1.13

EFFECTIVE DATE

September 18, 2006

SUBJECT

Discriminatory Harassment

Page 12 of 13

statue or regulation to a public body. The act also states that an employer may not adversely act against an employee if a public body requests that the employee participate in either an investigation or a hearing held by a public body.

**F. REFERENCES:**

Civil Service Regulation 1.03 Discriminatory Harassment  
Civil Service Regulation 1.04 Reasonable Accommodation  
Collective Bargaining Agreements  
DCH Equal Employment Opportunity Policy 4.1.15  
Discriminatory Harassment Complaint form DCH-1012(E)  
Employee Handbook/DCH Work Rules #30 Discriminatory Harassment and #15 Retaliation  
Freedom of Information Act (FOIA) Policy 6.4  
Michigan's Persons with Disabilities Civil Rights Act, PA 220 of 1976, MCL 37.1101 et seq.  
Section 504 of the Rehabilitation Act of 1973  
Americans with Disabilities Act Amendment Act of 2008  
Americans with Disabilities Act of 1990  
Michigan Elliott-Larsen Civil Rights Act, 1976 PA 220, as amended  
U.S. Equal Employment Opportunity Commission  
Title VII of the Civil Rights Act of 1964, as amended

**NOTE:** The language of a collective bargaining agreement shall supersede the language in this policy.

**G. CONTACT:**

Questions regarding this policy should be directed to Equal Employment Opportunity (EEO) Officer, Toya Williams, (517) 335-4276; email: [Williamst8@michigan.gov](mailto:Williamst8@michigan.gov) or DCH Human Resources Director.

RECOMMENDED BY:  DATE: 1/30/14  
Deputy Director

APPROVED BY:  DATE: 2/3/14  
Chief Deputy Director

APPROVED BY:  DATE: 2/3/14  
Director



STATE OF MICHIGAN  
DEPARTMENT OF COMMUNITY HEALTH  
**POLICY AND PROCEDURE MANUAL**  
*POLICY AND PROCEDURE*

**CHAPTER**

Human Resources

**NUMBER**

4.1.13

**EFFECTIVE DATE**

September 18, 2006

**SUBJECT**

Discriminatory Harassment

Page 13 of 13

Attachment 1

**ON-SITE CONTRACTUAL STAFF DISCRIMINATORY HARASSMENT COMPLAINT PROCESS**

**DCH employee files complaint against on-site Contractual Staff:**

1. DCH EEO Officer will receive complaint.
2. DCH EEO Officer will forward a copy of the complaint to the contractual agency.
3. DCH EEO Officer will determine if the complaint meets the criteria for an investigation.
4. DCH EEO Officer and the contractual agency will jointly conduct the investigation. The contractual agency will be the lead investigator unless otherwise indicated.
5. DCH EEO Officer and Human Resources will determine the No-Contact provision and inform the agency.
6. The contractual agency will prepare the investigation report in which both investigators will sign. DCH EEO Officer will receive a copy of the investigation report.
7. If the complaint was substantiated, the contractual agency will inform DCH EEO Officer in writing that corrective/disciplinary action was taken.
8. DCH EEO Officer will send disposition letter to DCH complainant.

**On-Site Contractual staff files a complaint against DCH employee:**

1. Complaint is filed with DCH EEO Officer.
2. DCH EEO Officer will notify the agency that one of their employees has filed a complaint.
3. DCH EEO Officer will handle the complaint/investigation process.
4. Inform the contractual agency of the outcome of the investigation.

**On-Site Contractual vs. On-Site Contractual:**

1. Complaint is filed with DCH EEO Officer.
2. DCH EEO Officer will forward a copy of the complaint to the contractual agency.
3. The contractual agency will handle complaint/investigation process.
4. DCH EEO Officer may investigate the complaint or jointly investigate as determined by DCH Chief Deputy Director.
5. Contractual agency provides the DCH EEO Officer with a copy of the investigation report which includes the disposition prior to notifying the complainant and the accused of the outcome.