A. PURPOSE

The purpose of this policy and procedure is to prohibit discriminatory harassment and to provide direction and guidance to employees, supervisors, managers, and executive staff in addressing, reporting, and resolving workplace situations involving 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, acts or threats of violence, bullying 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.

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.

C. DEFINITIONS

"Equal Employment Opportunity Officer (EEO)" refers to EEO Officer in Central Office.

"Harassment Coordinator" refers to the employee designated at each facility as the point of contact for staff at the facility who wish to inquire or file a complaint.

"Internal Complaint" is a complaint that was filed within the department.

"External Complaint" is a complaint that was filed with the Equal Employment Opportunity Commission (EEOC) and Civil Rights regarding a situation that occurred in our department.

Definition of Discriminatory Harassment and Inappropriate Conduct

"Discriminatory Harassment" is defined as 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:

1. Submission to the conduct or communication is made a term or condition, either explicitly or implicitly, to obtain employment.

2. Submission to or rejection of the conduct or communication by a person is used as a factor in decisions affecting the individual's employment.
3. 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.

“Genetic Information” means information about a gene, gene product, or inherited characteristic of an individual derived from the individual’s family history or a genetic history.

“Genetic Test” means the analysis of human DNA, RNA, chromosomes, and those proteins and metabolites used to detect heritable or somatic disease-related genotypes or karyotypes for clinical purpose. A genetic test must be generally accepted in the scientific and medical communities as being specifically determinative for the presence, absence, or mutation of a gene or chromosome in order to qualify under this definition. Genetic test does not include a routine physical examination or a routine analysis including, but not limited to, a chemical analysis of body fluids unless conducted specifically to determine the presence, absence, or mutation of a gene or chromosome.

“Sexual orientation” means actual or imputed heterosexuality, homosexuality, or bisexuality.

“Disability” means any of the following:
   a. A determinable physical or mental characteristic of a person, which may result from disease, injury, congenital condition of birth, or functional disorder, if the characteristic:
      1) substantially limits one or more of the major life activities of the person, and
      2) is unrelated to a) the person’s ability to perform the duties of a particular job or position or b) the person’s qualifications for employment or promotion.

   b. A history of a determinable physical or mental characteristic described in subsection a-1.

   c. Being regarded as having a determinable physical or mental characteristic described in subsection a-1.

   d. Disability does not include either of the following:
      1) A determinable physical or mental characteristic caused by the current illegal use of a controlled substance by the person.
      2) A determinable physical or mental characteristic caused by the use of alcohol by the person if that physical or mental characteristic prevents the person from performing the duties of the person’s job.

“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 of behaviors may not rise to the level of harassment; however, they are nonetheless, unacceptable in the workplace and will not be tolerated.

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
   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.

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 are 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, contract employees, 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 are prohibited from engaging in discriminatory harassment and inappropriate conduct. All departmental employees are responsible for assuring that inappropriate conduct or discriminatory harassment behavior does not occur by conducting himself or herself in an appropriate manner.

2) Employees are expected to take reasonable care to avoid harm to themselves 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 Equal Employment Opportunity (EEO) Officer.

3) Administrators, managers, and supervisors are responsible for fostering and maintaining a work environment free of discrimination, harassment and inappropriate conduct. They must also promptly address all complaints brought to their attention by employees. If managerial and supervisory staff are aware of any instances in the workplace, they must take prompt and appropriate action to bring about a discontinuance of the inappropriate conduct or discriminatory harassment.

4) Managers and supervisors are obligated to address inappropriate conduct before it rises to the level of discriminatory harassment when possible.

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:

   a. The employee is subjected to unwanted discriminatory harassment in the workplace by a supervisor, manager, co-worker, or other person.
b. The employee witnesses a supervisor, manager, co-worker, or non-employee, including vendors and contractors, engaging in discriminatory harassment.

2) 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.

3) Each manager or supervisor shall ensure that in their respective work areas the Equal Opportunity Poster is posted which advises employees of the name, work telephone and work location of the EEO Officer and/or Harassment Coordinator.

4) Complaints should be made in writing by using the Discriminatory Harassment Complaint form DCH-1012 (E).

5) The complainant is required to sign the complaint form verifying its accuracy.

6) If the Hospital, Center or Human Resource Director is the accused, the complaint shall be filed directly with the EEO Officer in Central Office.

7) Confidentiality shall be maintained to the extent possible and as practicable to conduct a thorough investigation.

8) 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

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

Reporting Timeframe
Michigan Civil Service rules, state law, federal law and DCH policy require employees to report violations immediately to ensure a prompt, thorough, and fair investigation. Timeliness in reporting is a major consideration of the credibility of the complaint. When your attempts to get the behaviors stopped have failed, you must report your concerns when you have a reasonable belief that a violation has occurred.
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.
- Federal Equal Employment Opportunity Commission 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:

<table>
<thead>
<tr>
<th>Responsibility</th>
<th>Action</th>
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</thead>
<tbody>
<tr>
<td>Employee</td>
<td>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:</td>
</tr>
<tr>
<td></td>
<td>a. Specific details as to what happened,</td>
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<td></td>
<td>b. Whom was directly or indirectly involved,</td>
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<td></td>
<td>c. When the incident(s) occurred (date and time),</td>
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<td></td>
<td>d. Witnesses to the event(s) (not hearsay),</td>
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<tr>
<td></td>
<td>e. Documents or other evidence that may be useful to the investigation,</td>
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<td></td>
<td>f. Why the complainant believes that their protected status (i.e., race, gender, age, etc.) is the reason for the adverse actions(s) or conduct,</td>
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<td></td>
<td>g. How the treatment of the complainant differs from the treatment of other similarly situated employees that do not share the complainants protected status, and</td>
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<td></td>
<td>h. What the complainant is seeking as a remedy to the situation.</td>
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<tr>
<td>EEO Officer</td>
<td>1. Receives complaint.</td>
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<td></td>
<td>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</td>
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</table>

* NOTE: The EEO Officer will conduct discriminatory
harassment investigation that involves DCH employees at the Huron Valley Complex.

| EEO Officer and the Supervisor of the area where the investigation occurred. | Follow through with recommendations in the investigative report. |

* NOTE: The EEO Officer will attend any disciplinary conference that is a result of a substantiation of discriminatory harassment.

discriminatory harassment, employee relations or a grievance issue.

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.

4. Notifies the complainant in writing whether or not the complaint will be investigated.

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.

6. Interviews the employee, the alleged perpetrator(s), and witness(es) to the incident(s).

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.

8. Notify the complainant, the accused, and appropriate management staff of the outcome of the investigation.

9. The complainant and the accused will receive a written notice of disposition informing them of the results of the investigation.

10. Forwards a copy of the investigative report to Human Resources/Labor Relations Section for appropriate disciplinary action, and provides appropriate documentation, if applicable.
### HOSPITALS AND CENTERS:

<table>
<thead>
<tr>
<th>Responsibility</th>
<th>Action</th>
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</thead>
<tbody>
<tr>
<td>Employee</td>
<td>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:</td>
</tr>
<tr>
<td></td>
<td>a. Specific details as to what happened,</td>
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<td></td>
<td>b. Whom was directly or indirectly involved,</td>
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<td>e. Documents or other evidence that may be useful to the investigation,</td>
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<td>f. 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</td>
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<tr>
<td></td>
<td>g. How the treatment of the complainant differs from the treatment of other similarly situated employees that do not share the complainants protected status.</td>
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<tr>
<td>Hospital/Center Director or Harassment Coordinator</td>
<td>1. Receives complaint.</td>
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<td>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.</td>
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<td>3. Prepares a preliminary report that contains information from the interview with the employee.</td>
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<td>4. Sends the preliminary report with the harassment complaint to the Hospital/Center Director or designee.</td>
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<tr>
<td>Hospital/Center Director or Designee</td>
<td>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.</td>
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</table>
|                                    | 2. Notifies the complainant in writing whether or
<table>
<thead>
<tr>
<th>Investigator</th>
<th>1. Interviews the employee, the alleged perpetrator(s), and witness(es) to the incident(s) and other individuals relevant to the investigation.</th>
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<td>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.</td>
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<td></td>
<td>3. Sends the report to the Hospital/Center Director or designee.</td>
</tr>
<tr>
<td>Hospital/Center Director or Designee</td>
<td>1. Notifies the complainant, the accused, and appropriate management staff of the outcome of the investigation.</td>
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<td>2. Sends the complainant and the accused a written notice of disposition informing them of the results of the investigation.</td>
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<td></td>
<td>3. Forwards a copy of the investigative report to Human Resources/Labor Relations Section for appropriate disciplinary action, and provides appropriate documentation, if applicable.</td>
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<td>4. Decides on appropriate administrative action.</td>
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<td>5. Responsible for the follow through on the recommendations.</td>
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</table>

*NOTE: If the investigation was conducted by the EEO Officer and resulted in a substantiation, the EEO Officer will attend the disciplinary conference.*
6. Informs the EEO Officer in Central Office of the outcome of the investigation and any disciplinary action taken.

Record Keeping

- An official case record for Central Office and Huron Valley Complex investigations will be kept in Central Office; and the official case record for the Hospital/Centers investigation will be kept at their perspective work sites with the directors. The official case record will include, 1) complaint form, 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; 4) the final investigatory report. The Hospitals and Centers will forward the completed case file to Central Office for record retention, after the investigation is completed.

- Central Office and the Hospitals & Centers shall preserve all records from all investigative steps for seven years (three years at Central Office 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

There are three main terms that are used to describe retaliation. Retaliation occurs when an employer takes an adverse action against a covered individual because he or she engaged in a protected activity. These three terms are described below:

1. Adverse Action

   a. An adverse action is an action taken to try to keep someone from opposing a discriminatory practice, or from participating in an employment discrimination proceeding. Examples of adverse actions include:

      - employment actions such as termination, refusal to hire, and denial of promotion,
      - other actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references, and increased surveillance,
      - any other action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights.

   b. Adverse actions do not include petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, "snubbing" a colleague, or negative comments that are justified by an employee's poor work performance or history.

   c. Employees are not excused from continuing to perform their jobs or following the workplace
rules because they have filed a discriminatory harassment complaint or opposed discrimination.

2. Covered Individuals
Covered individuals are people who have opposed unlawful practices, participated in proceedings, or requested accommodations related to employment discrimination based on race, color, sex, religion, national origin, age, disability, sexual orientation, height, weight, marital status, partisan considerations or genetic information.

3. Protected Activity
Participation in an employment discrimination proceeding such as:
- Filing a charge of employment discrimination
- Cooperating with an internal investigation of alleged discriminatory practices; or
- Serving as a witness in a EEO investigation or litigation

A protected activity can also include requesting a reasonable accommodation based on religion or disability. See Civil Service Regulation 1.04 Reasonable Accommodation.

4. Separate Investigation
Retaliation against anyone for making a complaint, acting as a witness, participating in an investigation proceeding or otherwise opposing discrimination is strictly prohibited and may give rise to a separate investigation. Employees in violation of this policy may be subject to discipline, up to and including dismissal.

SANCTIONS
a) Employees may be disciplined up to and including dismissal for violations of this policy.

b) Employees may be held personally liable for violations of this policy. Personal liability goes beyond the prohibitions of the Civil Rights Act, and includes the employment prohibitions imposed by the Michigan Department of Civil Service and DCH.

c) 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 statute 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:

DCH Work Rule #26
Civil Service Regulation 1.03 Discriminatory Harassment
Civil Service Regulation 1.04 Reasonable Accommodation
Collective Bargaining Agreements
Discriminatory Harassment Complaint form DCH-1012(E)
The Americans with Disability Act of 1990
Section 504 of the Rehabilitation Act of 1973
Title VII of the Civil Rights Act of 1964, as amended
DCH Equal Employment Opportunity Policy 4.1.15
The U.S. Equal Employment Opportunity Commission
The Michigan Elliott-Larsen Civil Rights Act, 1976 PA 220, as amended
DCH Freedom of Information Act (FOIA) Policy 6.4
State of Michigan Acceptable Use Policy 1460.00

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 Officer, Toya Williams 517-335-4276; email: Williamst8@michigan.gov.

RECOMMENDED BY:  
Chief Deputy Director  
DATE: 9/15/2008

APPROVED BY:  
Director  
DATE: 9-16-08