Please click the links below to ensure all parts of the policy are read before signing on the course policy acknowledgement page.

**HR - Non-Discrimination/Harassment Policy**

**HR - Equal Employment Opportunity**

**TRANSITIONAL POLICY - HR - Non-Discrimination/Harassment/Retaliation Prevention Policy**

**Non-Discrimination & Harassment Policy Update - April 2016**
I. Purpose:

To provide a work environment that is free of any type of discrimination or harassment in compliance with the California Fair Employment and Housing Act and Title VII of the Civil Rights Act, and the Americans with Disabilities Act.

II. Policy:

Sexual Harassment, Harassment, Disruptive Conduct and Discrimination:

John Muir Health expressly supports respect for all individuals and professional behavior at all times and is intolerant of any form of harassment. Common courtesy, a well-modulated voice, thoughtful listening, openness to others, and a willingness to recognize the dignity of all persons, demonstrates positive professional behavior. Any form of sexual harassment on the basis of categories protected under either federal or state law is a violation of John Muir Health’s policy. Any violation of this policy could lead to discipline up to and including termination. Additionally, behavior which is not of a sexual nature but has the effect of significant disrespect will not be permitted. There are three categories covered by this policy:

A. Sexual Harassment

A. John Muir Health is committed to providing a work environment free from unlawful sexual harassment. Sexual harassment has been defined by federal and state regulations as a form of sex discrimination. While it is not easy to define precisely what sexual harassment is, it does include slurs, insensitive or offensive jokes, and other unwelcomed verbal, graphic, or physical conduct by one individual towards another. No employee, male or female, shall sexually harass another employee by:

2.1. Making unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature.
3.2. Making submission to, or rejection of, such conduct, the basis for an employment decision; or

Creating an intimidating, hostile, or offensive working environment by such conduct.

4.3. Examples of conduct which may be considered to be sexual harassment include:

a. Derogatory or vulgar comments regarding an individual’s sexuality or appearance;

b. Repeated offensive flirtations; and

c. Any offensive physical contact of a sexual nature by one individual towards another.

B. Harassment

This is behavior that is repeated and persistent, and can take the form of yelling, derogatory comments, belittling the individual, or public humiliation. Such behavior is not considered professional. Employees should not engage in such negative behavior towards each other, patients, physicians, or other individuals with whom they come in contact during their working hours.

Examples of harassment are:

1. Creating an intimidating, hostile or offensive working environment by consistently making derogatory comments about an individual’s appearance or behavior; and

2. Consistently yelling at another individual, when speaking in a normal tone of voice is indicated.

C. Disruptive Conduct

This is conduct that has the potential for adversely impacting both the quality of patient care and the ability of other employees to work effectively. Disruptive behavior can take many forms: tirades, abusive treatment of patients, employees, physicians, visitors or others, or behavior during meetings which has the effect of seriously interrupting the meeting. When behavior disrupts the operation of the workplace, affects the ability of others to get their jobs done, and creates a sense of hostility in the workplace, it will be necessary to address such conduct.

Examples of disruptive conduct are:

1. Verbal attacks leveled at individuals or groups, which are personal, irrelevant, or go beyond the bounds of fair professional comments;

2. Impertinent and inappropriate comments written in official documents which impugn the quality of care in John Muir Health or attack particular individuals; or

3. Non-constructive criticism addressed to its recipient in such a way as to intimidate, undermine confidence, belittle, or imply stupidity or incompetence.
D. Unlawful Discrimination:

John Muir Health and its Medical Staff are committed to providing a work environment that is free of any type of unlawful discrimination. This includes, but is not limited to, discrimination based on an individual’s sex, race, color, religion, national origin, ancestry, pregnancy, age, marital status, medical condition, physical disability (including HIV and AIDS), sexual orientation, handicap or any other protected characteristic.

1. Violations of this policy regarding unlawful discrimination or harassment are grounds for corrective action in accordance with this policy and the Medical Staff Bylaws.

2. John Muir Health and its supervisory employees may be responsible for acts of harassment when the employer, or its supervisory employees, know or should have known of the conduct.

   a. Any supervisor who is aware of any incident or situation, which may be discriminatory or fall in the category of harassment, must immediately inform the Sr. Vice President of Human Resources who will inform the CAO of the matter.

   b. It is the responsibility of all supervisory personnel to assure their employees that they will not be retaliated against for reporting harassment, and that sexual harassment and unlawful discrimination will not be tolerated by John Muir Health.

   c. Requests by the reporting party that no action will be taken and that it is for “information only” will not be granted.

3. John Muir Health may also be responsible for the acts of non-employees, including but not limited to, physicians, volunteers, salespeople, patients and visitors.

4. If a John Muir Health employee/medical staff member makes a false allegation of discrimination or harassment against an employee/member of the Medical Staff, they shall be subject to appropriate hospital disciplinary action/Medical Staff Bylaws including termination/loss of privileges.

III. Procedure:

A. Any patient, employee or volunteer, who feels he/she may have been harassed, should immediately report the facts of the incident immediately to his/her supervisor and the Sr. Vice President of Human Resources who will inform the CAO of the matter.

B. Any Medical Staff member who feels he/she may have been harassed should report the incident immediately to the Chief of Staff and the Sr. Vice President of Human Resources who will inform the CAO of the matter.

C. When an employee is the alleged harasser, the Sr. Vice President of Human Resources or his/her designee will promptly investigate all allegations.
D. If the investigation confirms the allegation, the employee responsible for the harassment or discrimination will be dealt with according to defined procedures, up to and including termination of employment.

E. If the investigation does not confirm the allegation, the involved employee will be so informed by the Sr. Vice President of Human Resources or his/her designee who will inform the CAO of the matter.

F. When a member of the Medical Staff is the alleged harasser, all allegations will be promptly investigated preliminarily by the Chief of Staff or his/her designee(s) and further addressed pursuant to the Medical Staff Bylaws, as warranted. The Sr. Vice President of Human Resources and the Director Quality Management will be kept apprised of developments and will inform the CAO of the matter.

G. The subject of the alleged harassment will be informed of developments as appropriate.

IV. Patient/Family Education: N/A

V. Documentation: N/A

VI. Relevant Hyperlinks: N/A

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References/Regulations:

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<td>Lisa Foust, Senior VP, Human Resources</td>
<td>WCF: February 1994</td>
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<td>JMH: July 2003</td>
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Supersedes: (with last approval date)

Policy database # for versions prior to 2008: WCF GPM B25.05 (7/03); Mgr. Man. ER-05

Record of Review Dates

Review Only Dates: 5/10, 3/13, 4/14

Revision Dates: 5/07

List Committee, Medical Staff, etc. Reviews:

Record of Approval Dates

PPRC: 8/7/14  Admin: 8/15/14  MEC-WC: N/A  MEC-CC: N/A

Operations Council: 9/12/14  Board: 7/03, 5/07, 9/10, 9/14
I. Purpose:

To articulate John Muir Health's philosophy as an equal opportunity employer.

II. Policy:

A. It is the policy of John Muir Health to extend equal employment opportunity to all persons in all aspects of the employer-employee relationship including recruitment, hiring, upgrading, training, promotion, transfer, discipline, lay off, recall and termination.

B. Employment decisions will be made without regard to any individual's gender, race, color, religion, national origin, ancestry, pregnancy, age, marital status, medical condition, disability, sexual orientation, genetic information, or any other protected characteristic.

III. Procedure:

An employee or applicant who feels that s/he has a concern with respect to equal employment opportunity at John Muir Health, may contact the Director or Senior Vice President of Human Resources and provide a written statement of his/her concern.

IV. Patient/Family Education – N/A

V. Documentation – N/A

Applies To:
John Muir Medical Centers – Concord & Walnut Creek

Reference/Regulations:

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<td>Alice Villanueva</td>
<td>12/03</td>
<td>(SA-GPM B-25.03)</td>
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TRANSITIONAL POLICY
HR - Non-Discrimination/Harassment/Retaliation Prevention Policy

This is a transitional policy that must be read in conjunction with the current HR-Non-Discrimination/Harassment Policy.

I. PURPOSE
To provide a work environment that is free of any type of discrimination or harassment in compliance with the California Fair Employment and Housing Act and Title VII of the Civil Rights Act and the Americans with Disabilities Act.

Definitions

**JMH:** John Muir Health and, upon approval by the applicable board of directors, John Muir Physician Network, John Muir Behavioral Health and John Muir Health Foundation.

**National Origin:** Includes discrimination against an individual because that person holds or presents the California driver's license issued to those who cannot document their lawful presence in the United States. An employee's or applicant for employment's immigration status will not be considered for any employment purpose except as necessary to comply with federal, state or local law.

**Protected Characteristics:** Includes race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status (including registered domestic partnership status), sex (including pregnancy, childbirth, lactation and related medical conditions), gender (including gender identity and expression), age (40 and over), sexual orientation, Civil Air Patrol status, military and veteran status and any other consideration protected by federal, state or local law are referred to, collectively, as “protected characteristics”.

II. POLICY

**Equal Employment Opportunity**

JMH is an equal opportunity employer. In accordance with applicable law, we prohibit discrimination and harassment against employees, applicants for employment, individuals providing services in the workplace pursuant to a contract, unpaid interns and volunteers based on their actual or perceived protected characteristic and/or national origin defined in this policy.

Our commitment to equal employment opportunity applies to all persons involved in our operations and prohibits unlawful discrimination and harassment by any employee (including supervisors and co-workers), agent, client, customer, or vendor.

**Prohibited Harassment**

JMH is committed to providing a work environment that is free of illicit harassment based on any protected characteristics. As a result, JMH maintains a strict policy prohibiting sexual harassment and harassment against employees, applicants for employment, individuals providing services in
the workplace pursuant to a contract, unpaid interns or volunteers based on any legally-recognized basis, including, but not limited to, their protected characteristics and/or national origin defined in this policy.

This policy applies to all persons involved in our operations, including coworkers, supervisors, managers, temporary or seasonal workers, agents, clients, vendors, customers, or any other third party interacting with JMH (“third parties”) and prohibits proscribed harassing conduct by any employee or third party of JMH, including nonsupervisory employees, supervisors and managers. If such harassment occurs on JMH’s premises or is directed toward an employee or a third party interacting with JMH, the procedures in this policy should be followed.

**Prohibited Sexual Harassment**

Sexual harassment includes unwanted sexual advances, requests for sexual favors or visual, verbal or physical conduct of a sexual nature when:

- Submission to such conduct is made a term or condition of employment; or
- Submission to, or rejection of, such conduct is used as a basis for employment decisions affecting the individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment also includes various forms of offensive behavior based on sex and includes gender-based harassment of a person of the same sex as the harasser. The following is a partial list:

- Unwanted sexual advances.
- Offering employment benefits in exchange for sexual favors.
- Making or threatening reprisals after a negative response to sexual advances.
- Visual conduct: leering; making sexual gestures; displaying sexually suggestive objects or pictures, cartoons, posters, websites, emails or text messages.
- Verbal conduct: making or using derogatory comments, epithets, slurs, sexually explicit jokes, or comments about an employee’s body or dress.
- Verbal sexual advances or propositions.
- Verbal abuse of a sexual nature; graphic verbal commentary about an individual’s body; sexually degrading words to describe an individual; suggestive or obscene letters, notes or invitations.
- Physical conduct: touching, assault, impeding or blocking movements.
- Retaliation for reporting harassment or threatening to report sexual harassment.
An employee may be liable for harassment even if the alleged harassing conduct was not motivated by sexual desire. An employee who engages in unlawful harassment may be personally liable for harassment even if JMH had no knowledge of such conduct.

**Other Types of Prohibited Harassment**
Prohibited harassment on the basis of any legally protected classification, includes conduct such as:

- Verbal conduct including threats, epithets, derogatory comments or slurs based on an individual’s protected classification;

- Visual conduct, including derogatory posters, photographs, cartoons, drawings or gestures based on protected classification; and

- Physical conduct, including assault, unwanted touching or blocking normal movement because of an individual’s protected status.

**Abusive Conduct Prevention**
It is expected that JMH and persons in the workplace perform their jobs productively as assigned, and in a manner that meets all of managements’ expectations, during working times, and that they refrain from any malicious, patently offensive or abusive conduct including but not limited to conduct that a reasonable person would find offensive based on any of the protected characteristics described above.

Examples of abusive conduct include repeated infliction of verbal abuse, such as the use of malicious, derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the intentional sabotage or undermining of a person's work performance.

**Protection Against Retaliation**
Retaliation is prohibited against any person by another employee or by JMH for using our complaint procedure, reporting proscribed discrimination or harassment or filing, testifying, assisting or participating in any manner in any investigation, proceeding or hearing conducted by a governmental enforcement agency. Prohibited retaliation includes, but is not limited to, termination, demotion, suspension, failure to hire or consider for hire, failure to give equal consideration in making employment decisions, failure to make employment recommendations impartially, adversely affecting working conditions or otherwise denying any employment benefit.

III. PROCEDURE

**Reporting Obligations of Employee**
Any employee who believes that he or she has been harassed, discriminated against, or subjected to retaliation or abusive conduct by a co-worker, supervisor, agent, client, vendor, customer, or any other third party interacting with JMH in violation of the foregoing policies, or who is aware of such behavior against others, must immediately provide a written or verbal report to:

- His or her supervisor, and/or

- Human Resources representative, such as:
the Senior VP of Human Resources, the Director of Employee & Labor Relations, the Human Resources Program Manager of Employee Relations, or the Human Resources Business Partners.

**Reporting Obligations of Supervisors and Managers**

Employees are not required to make a complaint directly to their immediate supervisor. However, supervisors and managers who receive complaints of misconduct must immediately report such complaints to any of the following Human Resources representatives:

- Senior Vice President of Human Resources
- Director – Employee & Labor Relations, and/or
- Program Manager – Employee Relations, and/or
- Human Resources Business Partner.

**Investigation Process**

When a report is received, Human Resources will conduct a fair, timely, thorough and objective investigation that provides all parties appropriate due process and reaches reasonable conclusions based on the evidence collected. JMH expects all employees to fully cooperate with any investigation conducted into a complaint of proscribed harassment, discrimination or retaliation, or regarding the alleged violation of any other health system policies. JMH will maintain confidentiality surrounding the investigation to the extent possible and to the extent permitted under applicable federal and state law.

Upon completion of the investigation, conclusion will be communicated as soon as practical. If it is determined that this policy has been violated, remedial action will be taken, commensurate with the severity of the offense, up to and including termination of employment. Appropriate action will also be taken to deter any such conduct in the future.

*This is a transitional policy that must be read in conjunction with the current HR-Non-Discrimination/Harassment Policy.*
Non-Discrimination & Harassment Policy Update
April 2016

Non-Discrimination & Harassment Policy

- New regulations intended to clarify the already-existing requirement to take reasonable steps to prevent discriminatory and harassing conduct
- Written transitional and prior policy in place
- Transitional policy surpasses prior policy if any conflict

Policy Basics – Protected Characteristics

- Prohibit discrimination and harassment based on actual or perceived protected characteristics, including:
  - Race, religious creed, color, national origin, ancestry,
  - Physical or mental disability, medical condition, genetic information,
  - Marital status (including registered domestic partnership status), sex (including pregnancy, childbirth, lactation & related medical conditions), gender (including gender identity and expression),
  - Age (40 and over),
  - Sexual orientation,
  - Civil Air Patrol status, military and veteran status and
  - Any other consideration protected by federal, state or local law.

Policy Basics – Continued

- Breadth of Protection: Prohibits coworkers, third parties, supervisors and managers from engaging in discriminatory, harassing, or retaliatory conduct.
- Complaint Process: Provides complaint process to ensure complaints are:
  - Kept confidential (to extent possible)
  - Responded to in timely manner
  - Investigated by qualified personnel in impartial manner
  - Documented and tracked
  - Provides for remedial action
- Complaint Mechanism: Human Resources (925) 947-5215
- Supervisor Obligation: Are instructed to report misconduct
- Retaliation: Employees protected from retaliation for lodging a complaint or participating in an investigation.