

# **Sexual Harassment**

Effective: February 2016

Boston Public Health Commission Policy Number: 104

## **I. PURPOSE**

The Boston Public Health Commission (“BPHC”) affirms its commitment to maintain an environment free of sexual harassment and free of retaliation based on an employee, client or visitor having complained of or opposed sexual harassment, or cooperated or assisted with an investigation into sexual harassment allegations. In order to achieve this goal, any form of sexual harassment, including the conduct that is described in this policy, will not be tolerated and procedures are provided according to which inappropriate conduct will be addressed.

## **II. POLICY**

BPHC expects all employees to conduct themselves in a professional manner with respect and concern for their fellow employees as well as BPHC clients and visitors. Sexual harassment is unlawful and will not be tolerated. Retaliation against anyone who has complained of or opposed sexual harassment at BPHC or who has cooperated or assisted with an investigation into such, is unlawful and likewise will not be tolerated.

## **III. PROCEDURE**

### **A. GENERAL**

1. It is BPHC’s policy that all employees, clients and visitors have a right to work or be in an environment free from any type of discrimination, including freedom from sexual harassment regardless of sexual orientation, gender or gender identity or expression.
2. The BPHC shall post notice of the Fair Employment Law pursuant to M.G.L. c.151B §7. The BPHC is committed to adhering to applicable federal and state laws regarding sexual harassment. The BPHC will investigate and resolve complaints arising out of activity or behavior considered to be sexual harassment.
3. The BPHC prohibits sexual harassment of employees, clients and visitors in any form. Such conduct may result in disciplinary action against employees up to and including termination. Clients and visitors engaging in prohibited conduct may be barred from BPHC property. Any incident may be referred for legal action or any other appropriate measure to assure such activity does not recur.

### **B. DEFINITIONS**

1. Sexual harassment: sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:
  - a. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions, or term or condition for receiving BPHC services; or
  - b. such advances, requests or conduct are unwelcome and create an intimidating, hostile, humiliating or sexually offensive work or clinical environment.
2. Workplace: Any place that a BPHC on-duty employee may be found.
3. Client: Anyone for whom the BPHC renders services. This includes, but is not limited to, anyone requesting or receiving emergency medical services, tenants of BPHC owned/operated property and homeless shelter residents.
4. Visitor: Any non-employee authorized to be on BPHC premises. This includes, but is not limited to, vendors, contractors and members of the public attending meetings.

#### C. PROHIBITED BEHAVIOR

1. No supervisor or employee shall threaten or insinuate, either explicitly or implicitly, that an employee, client or visitor's refusal to submit to sexual advances will adversely affect the employee, client or visitor's employment, performance reviews, advancement, assigned duties, shifts, or any other condition of employment, career development, program participation or service of delivery.
2. No supervisor, employee, client or visitor shall engage in any conduct of a sexual nature, whether intended or not, that is unwelcome and has the effect of creating a workplace environment that is hostile, offensive, intimidating or humiliating to male or female workers since such conduct may also constitute sexual harassment. While it is not possible for the BPHC to list all circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:
  - a. Sexual assault and coerced sexual acts;
  - b. Unwelcome sexual advances, whether they involve physical touching or not;
  - c. Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments, sexual flirtations or propositions;
  - d. Written or oral references to sexual conduct or gossip regarding one's sex life;
  - e. Sexual slurs, sexual epithets, or sexually degrading descriptions;
  - f. Unwelcome graphic comments about an individual's body or overly personal conversations of a sexual nature;

- g. Unwelcome sexual jokes, stories, drawings, pictures, videos, video games, e-mails or gestures;
- h. Spreading of sexual rumors;
- i. Unwelcome touching of an individual's body, clothing or objects in a sexual way;
- j. Discussion of an individuals (including one's own) sexual activities and/or interests;
- k. Inquiries into an employee's sexual experiences or preferences;
- l. Cornering, blocking normal movements in a sexual manner, and/or
- m. Displaying sexually suggestive objects in the workplace.

3. No employee shall make any sexual advances or accept any sexual advances from a client or a client's family. No employee shall threaten either implicitly or explicitly that a client's refusal, client's family member's refusal or a visitor's refusal to submit to sexual advances will adversely affect the client's status or eligibility for programs or service provided by BPHC.

4. Retaliation against an individual who has complained about sexual harassment and retaliation or against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated.

#### D. RAISING COMPLAINTS OF SEXUAL HARASSMENT OR RETALIATION

1. An employee, client or visitor who believes he or she has been the subject of any form of sexual harassment or retaliation is strongly encouraged to speak with the individuals identified in Section D(3) below.

2. All complaints of sexual harassment and retaliation will be treated with confidentiality to the extent possible consistent with the BPHC's need to investigate complaints and ensure the safety and well-being of the complainant and other employees. Complaints of sexual harassment and retaliation shall not result in reprisal or retaliation in any form to the complaining party or to the reporting party.

3. Any complaint by a person subject to sexual harassment or retaliation should be presented as soon as possible. Please be advised that there are time limits for filing complaints with outside agencies (see Section D(5) below). Complaints may be submitted to the complainant's supervisor, anyone else within the chain of command of the complainant's supervisor or any one of the following individuals:

The Executive Director  
1010 Massachusetts Ave., 6<sup>th</sup> floor  
Boston MA 02118  
617-534-5264

The Director of Human Resources

1010 Massachusetts Ave., 6<sup>th</sup> floor  
Boston MA 02118  
617-534-5657

The Chief Labor and Employment Counsel  
1010 Massachusetts Ave., 6<sup>th</sup> floor  
Boston MA 02118  
617-534-2449

The Associate Bureau director for Homeless Services  
617-534-6111

Chief of Emergency Medical Services  
Boston EMS  
785 Albany Street  
Boston MA, 02118  
617-343-2367

In the event that the complaint of sexual harassment or retaliation involves any one of the above listed persons, the complaint may be submitted to:

The General Counsel  
1010 Massachusetts Ave., 6<sup>th</sup> floor  
Boston MA 02118  
617-534-4322

In the event that the persons listed above are not on duty, the complainant may contact the BPHC's Manager On-Call, who is on duty nights and weekends, at pager number (781) 669-5672.

4. In the event of a complaint of sexual harassment or retaliation against a visitor involving a vendor or contractor, the BPHC will take action directly with the manager of the vendor or contractor in a timely fashion.

5. Any complaint of sexual harassment or retaliation may also be filed with the external agencies listed below. The use of the BPHC's complaint process does not preclude an employee from filing a complaint with these external agencies, nor does it toll the statute of limitations for filing with them. The statute of limitations for filing a complaint with the Massachusetts Commission Against Discrimination or the United States Equal Employment Opportunity Commission is 300 days from the date of the incident.

Director of Affirmative Action  
City of Boston Office of Personnel Management  
Boston City Hall  
One City Hall Plaza

Boston, MA 02201  
(617) 635-2788

The Massachusetts Commission Against Discrimination ("MCAD")  
One Ashburton Place  
Boston MA, 02108  
617-994-6000

The U.S. Equal Employment Opportunity Commission ("EEOC")  
One Congress Street  
Boston MA, 02114  
617-565-3200

#### E. RESPONSIBILITY AND PROCEDURE FOR INVESTIGATION

1. Any complaint of sexual harassment or retaliation is to be taken seriously and treated with sensitivity and discretion.
2. All employees other than "Reporting Employees" (as defined in section E(3) below) who observe, become aware of or receive a complaint or report of sexual harassment or retaliation are strongly encouraged to notify orally or submit a written report to their supervisor or any of the individuals identified in Section D(3) above promptly.
3. Certain employees, referred to here as "Reporting Employees," have special reporting duties, as described in Section E(4) below. Reporting Employees include all employees acting in a supervisory capacity (i.e. employees with authority to direct various aspects of employment of one or more employees such as hiring, firing, discipline, attendance, scheduling, work assignments, evaluation, promotion or transfer) and all managers, directors and all employees to whom a complaint of sexual harassment or retaliation can be made pursuant to Section D(3) above.
4. Any Reporting Employee who personally becomes aware of or is otherwise notified of conduct which may amount to sexual harassment or retaliation shall personally make a written report describing such conduct and shall submit the report to the Director of Human Resources. Reporting Employees must report any personal awareness of possible sexual harassment or retaliation as well as any complaints or reports of the same they receive in any form and from any source, including internal complaints or reports made under this Policy, union grievances, and complaints filed with outside agencies. Reporting Employees shall attach to their reports any written complaints submitted by the complainant or others and shall submit their reports and attachments to the Director of Human Resources before leaving the place of employment on the day of receiving such information, or as soon as practicable, except as provided in Section E(5) below.

5. In the event that the Director of Human Resources is not on duty and it is after business hours, the Reporting Employee shall contact the BPHC's Manager On-Call and shall submit such report in a sealed envelope addressed to the Director of Human Resources. The Manager On-Call shall deliver the envelope to the Director of Human Resources or his/her designee by the end of the following regular business day.

6. Upon receipt of a complaint or report of sexual harassment or retaliation, the Director of Human Resources shall inform the complainant of the existence of this policy, provide a copy of the policy if needed and direct the complainant as to how to file an internal complaint.

7. The BPHC's Director of Human Resources or his/her designee will investigate all complaints of sexual harassment or retaliation in a timely and impartial manner. Investigation into any such complaints or reports shall be completed within a reasonable time frame of up to 90 days, unless there is good cause requiring additional time.

8. The General Counsel's Office shall be advised of all investigations under this policy and shall provide assistance when necessary.

9. All investigations shall be conducted in such a way as to maintain confidentiality to the extent possible consistent with the need to conduct an investigation and ensure the safety and well-being of the complainant and other employees.

10. While the extent and nature of any investigation will depend upon the circumstances of the complaint, all investigations, to the extent possible, will include the following:

- a. A separate interview with the person filing the complaint;
- b. A separate interview and written statement of each witness and person with knowledge relevant to the complaint;
- c. A separate interview with the person alleged to have committed the sexual harassment or retaliation. The person will also be allowed to submit a written statement; and
- d. A review of any material documents identified by the complainant and the person alleged to have committed the sexual harassment or retaliation.

11. All employees are responsible for cooperating with an investigation into complaints of sexual harassment or retaliation. Any employee who fails to fully cooperate or hinders the investigation may be disciplined.

12. At the conclusion of the investigation, the Director of Human Resources or his/her designee shall prepare a written report of the investigation that shall include findings of fact and an opinion as to whether there has been any violation of BPHC policy. A copy of the complaint, along with all written statements of any witnesses and the person alleged to have committed the sexual harassment or retaliation shall be attached to the report.

13. A copy of the report shall be submitted to the Executive Director and the General Counsel. The Director of Human Resources shall maintain all complaints and reports of sexual harassment or retaliation. The Director of Human Resources shall notify the appropriate program or bureau director of the results of the investigation.

#### F. DISCIPLINARY ACTION

If it is determined that sexual harassment or retaliation has occurred and a violation of this policy has occurred, the BPHC will take such corrective action reasonably calculated to end such conduct and protect the complainant. Such action may range from counseling to termination from employment and may include such other forms of disciplinary action as the BPHC deems appropriate under the circumstances. If it is determined that a client, visitor, vendor, or contractor has violated this policy, appropriate steps will be taken to rectify or prevent the circumstances from recurring.

#### G. FALSE COMPLAINTS

Complainants who intentionally or knowingly file a false complaint or any other person providing false information during an investigation conducted in accordance with BPHC policy will be subject to corrective action up to and including termination of employment.