# Resident Agreement Addendum

In this section, you will find information about additional PSHMC benefits & policies. This is not an all inclusive list. In addition to the benefits explained in this section, you may find details on other benefit services available to Penn State Hershey Employees on the PSHMC Benefits Website at <a href="https://www.pennstatehershey.org/residency">www.pennstatehershey.org/residency</a> or <a href="https://infonet.hmc.psu.edu/benefits">https://infonet.hmc.psu.edu/benefits</a>

## University Fitness Center

On Campus PSU fitness center available to resident, spouse, and eligible dependents.

### Child Care

On campus child care center provided through KinderCare Learning Center. (717) 531-5484

## Laundry

Four white lab coats are provided for the entire residency period. No laundry service is provided at the institutional level, although this may be provided at the departmental level.

### Call Rooms

Call rooms are provided for residents who are required to stay in-house overnight. The program will supply the location and access to the call rooms.

# Other Support Services

- Typing services for presentation manuscripts submitted for publication
- Production, illustration, printing and mailing of all papers published or reprinted
- Any needed screening tests and/or vaccines through Employee Health Services
- ACLS, ATLS, or PALS certification if necessary for specialty
- Registration fee waived for Continuing Medical Education seminars offered through the Penn State College of Medicine.

## Professional Liability Insurance

Penn State Hershey Medical Center pays the full premium to provide commercial insurance for professional liability and also pays the full premium for extended coverage under the Catastrophic Loss Fund administered by the Commonwealth of Pennsylvania. The liability coverage provides legal defense and protection against awards from claims reported or filed after the completion of residency if the alleged acts or omissions of the residents are within the scope of the education program. The coverage is consistent with the coverage provided to other medical/professional practitioners at Penn State Hershey Medical Center. The liability coverage is claims-made coverage and tail coverage is purchased by Penn State Hershey Medical Center for the resident following completion of the training program. Upon request residents will receive a copy of the Certificate of Insurance for each year they are in the training program.

## **Counseling Services**

ComPsych® is the provider of GuidanceResources® services for staff employed by the Medical Center. GuidanceResources® benefits provide you and your dependents confidential support, resources and information for personal and work-life issues free of charge. Call 1-866-465-8935 or visit GuidanceResources® Online at www.guidanceresources.com

## **SUPERVISION POLICY**

PURPOSE: To ensure that the Penn State Hershey Medical Center's Graduate Medical Education program has defined a process for supervision by a licensed independent practitioner with appropriate clinical privileges of each participant in the program(s) for which they are providing patient care services, and to provide effective communication between the committee(s) responsible for graduate medical education, the medical staff and governing body.

POLICY STATEMENT: All post-graduate medical education trainees at the Penn State Hershey Medical Center are supervised by an attending physician who also has clinical privileges in the area they are supervising. The description of the role, responsibilities, and patient care activities of each resident are program-specific but are documented for each residency-training program and are available for faculty for review. These documents are maintained in the residency directors' offices located on site at the Penn State Hershey Medical Center. Each program has a mechanism in place to make decisions about the promotion of trainees in that particular program, such as a Clinical Competence Committee. All house officers at the Penn State Hershey Medical Center have training licenses and are permitted to write patient care orders.

The Penn State Hershey Medical Center assures regular communication between the Graduate Medical Education Committee (GMEC) and the Medical Staff Executive Committee through the appointment of the GMEC to the Medical Staff Executive Committee. In addition, the Chief Medical Officer and the Executive Director of the hospital also serve on the GMEC. These dual appointments result in effective communication regarding patient safety and quality of patient care provided by residents and faculty as well as the related educational and supervisory needs of post-graduate trainees.

All patient care must be supervised by qualified faculty. The program director must ensure, direct, and document adequate supervision of residents at all times. Residents must be provided with rapid, reliable systems for communicating with supervising faculty. Faculty schedules must be structured to provide residents with continuous supervision and consultation.

Faculty and residents must be educated to recognize the signs of fatigue and adopt and apply policies to prevent and counteract the potential negative effects.

The GMEC is responsible for monitoring the residency programs' supervision of residents and to ensure that supervision is consistent with:

- 1. The provision of safe and effective patient care
- 2. The education needs of the residents
- 3. Progressive responsibility appropriate to the residents level of education, competence, and experience
- 4. The applicable common and specialty/subspecialty-specific program requirements

## **EVALUATION, RENEWAL AND PROMOTION POLICY**

(Including Non-Renewal and Non-Promotion)

## I. Resident Evaluation

- A. Each residency program must demonstrate that it has an effective plan for assessing resident performance throughout the program and for utilizing the results to improve resident performance. This plan should include:
  - 1. the use of methods that produce an accurate assessment of the residents' competence in patient care, medical knowledge, practice-based learning and improvement, interpersonal and communication skills, professionalism, and systems-based practice;
  - 2. mechanisms for providing regular and timely performance feedback to residents that includes at least a written semiannual evaluation that is communicated to each resident in a timely manner and the maintenance of a record of evaluation for each resident that is accessible to the resident;
  - 3. a process involving use of assessment results to achieve progressive improvements in residents' competence and performance. Appropriate sources of evaluation include faculty, patients, peers, self, and other professional staff.
- B. Written evaluation of Resident will be conducted by the applicable department program at the end of each resident rotation, or semi-annually by the Program Director to ensure that residents demonstrate achievement of the six general competencies: patient care; medical knowledge; practice-based learning; interpersonal and communication skills; professionalism; systems-based practice; and/or any other factors deemed necessary or desirable to complete the requirements of the Program. The results of these evaluations will be kept on file in the resident's evaluation folder in each department. The evaluation folder will be available for the resident's inspection.
- C. The evaluation process is intended to establish standards for the resident's performance and to indicate the residents' ability to proceed to the next level of training. The process will, to the extent reasonably possible, provide early identification of deficiencies in the resident's knowledge, skills or professional character, and to the extent reasonably possible allow remedial action to enable said resident to satisfactorily complete the requirements of the Program.
- D. Program Directors or faculty advisors are encouraged to provide feedback through personal conferences. It is the responsibility of the Program Director to advise the resident of his/her performance in the program.
- E. Resident may be required to take the annual in-training examination for Resident's specific program. Other acceptable performance standards will be determined by the Program Director.
- F. The Program Resident Assessment Committee/Advisory Committee or appropriately designated body shall meet at least once each residency year to review the performance of Resident and make a determination as to the ability of Resident to continue in the program and/or advance to a higher level of responsibility. Promotion to the next level of training will be based on the Resident Assessment Committee determinations, evaluations and the program director and faculty input.
- G. Final Evaluation: The program director must provide a final evaluation for each resident who completes the program. The evaluation must include a review of the resident's performance during the final period of education and should verify that the resident has demonstrated sufficient professional ability to practice

competently and independently. The final evaluation must be part of the resident's permanent record maintained by the institution.

# II. Faculty Evaluation

The performance of the faculty must be evaluated by the program no less frequently than at the midpoint of the accreditation cycle and again prior to the next site visit. The evaluations should include a review of their teaching abilities, commitment to the educational program, clinical knowledge, and scholarly activities. Annual written confidential evaluations by residents must be included in this process.

Residents are required to submit to the program director or to the Graduate Medical Education Office, at least annually, confidential written evaluations of the faculty and of the educational experiences.

# III. Program Evaluation

The educational effectiveness of a program must be evaluated at least annually in a systematic manner.

A. Representative program personnel, i.e. at least the program director, representative faculty, and at least one resident, must be organized to review program goals and objectives and the effectiveness of the program in achieving them. The group must have regular documented meetings at least annually for this purpose. In the evaluation process, the group must take into consideration written comments from the faculty, the most recent report of the GMEC of the sponsoring institution and the residents' confidential written evaluations. If deficiencies are found, the group should prepare an explicit plan of action, which should be approved by the faculty and documented in the minutes.

### B. Outcome assessment

- 1. The program should use resident performance and outcome assessment in its evaluation of the educational effectiveness of the residency program.
- 2. The program should have in place a process for using resident and performance assessment results together with other program evaluation results to improve the residency program.
- C. Performance of program graduates on the certification examination should be used as one measure of evaluating program effectiveness.

### IV. Conditions and Notice of Renewal. Non-Renewal or Non-Promotion

Resident contract will be renewed based on the established standards of clinical competence, knowledge, skills, professional character, interpersonal skills, evaluations and/or any other factors deemed necessary to advance to the next level in training.

- A. Renewal of Resident Agreement: At least one hundred and twenty days (or thirty days if the appointment period is nine months or less) prior to the end of Resident's current appointment period, the Department Chairman or Program Director shall provide a written offer of reappointment detailing the terms and conditions of reappointment.
- B. Non-Renewal or Non-Promotion: In instances where a resident's agreement will not be renewed, or when a resident will not be promoted to the next level of training, Penn State Hershey Medical Center will provide the resident with a written notice of intents no later than four months prior to the end of the resident's current agreement. If the primary reason(s) for the non-renewal or non-promotion occurs within the four months prior to the end of the agreement, Penn State Hershey Medical Center will provide the resident with as much written notice of the intent not to renew or not to promote as circumstances will reasonably allow, prior to the end of the agreement.

Residents will be allowed to implement the institution's grievance and due process procedure policy if they receive a written notice either of intent not to renew their agreement(s) or intent to renew their agreement(s) but not to promote them to the next level of training.

### GRIEVANCE AND DUE PROCESS POLICY

Any Resident (or fellow) serving in an ACGME-accredited program at Penn State Milton S. Hershey Medical Center ("Medical Center") can seek resolution of grievances under this policy. "Grievance" means (a) any difference or disagreement between a Resident and a representative of the Medical Center relating to the Residents participation in his or her residency program; and (b) a Resident's disagreement with non-renewal of the Resident's contract or non promotion. This policy does <u>not</u> apply to appeals from (a) a suspension for a period of 15 days or more, or (b) termination from the residency program during the appointment period. The procedure is as follows:

- Resident to Program Director and/or Department Chair A Resident should first present the grievance to
  the Program Director and/or Department Chair in which the resident's training program primarily resides.
  Issues can best be resolved at this stage and every effort should be made to affect a mutually agreeable
  solution.
- 2. <u>Resident to Ombudsperson</u> In situations when the concern relates to the Department Chair or Program Director, and Resident believes that it cannot be presented to the Department Chair or Program Director, Resident may present the grievance directly to the Ombudsperson for guidance. The GME Office will assist the resident in identifying an Ombudsperson.
- 3. Resident to Vice Dean for Educational Affairs and/or Associate Dean for Graduate Medical Education If, after discussion with the Department Chair or Program Director (and/or Ombudsperson), the grievance is not resolved to the satisfaction of Resident, Resident has the option to present the grievance to the Vice Dean for Educational Affairs, who may delegate consideration of the grievance to the Associate Dean for Graduate Medical Education. The Vice Dean (or Associate Dean) shall meet with the Resident and consult with appropriate representatives of the program as part of consideration of the grievance. In the event a mutually agreeable resolution of the grievance is not possible, the Vice Dean (or Associate Dean) shall render any necessary decision to resolve the grievance and his/her decision will be final.

The grievance policy shall be utilized for academic or other disciplinary actions taken against resident that could result in non-renewal of resident agreement or non-promotion of resident to the next level of training, or other actions that could significantly threaten intended career development. The grievance policy shall also be used for adjudication of resident complaints and grievances related to the work environment or issues related to the program or faculty.

Suspensions of 15 days or more, or termination from the program during the appointment period, may be appealed in accordance with the provisions of the Resident Agreement relating to suspension and dismissal.

## SUSPENSION, DISMISSAL, OR DISCIPLINARY ACTION POLICY

### Suspension

Penn State Hershey Medical Center may suspend participation of Resident in Program, for cause for failure to fulfill any obligation of the "Resident Agreement", including but not limited to, those specified in this policy. If the suspension is for a period of fifteen (15) days or more, Resident shall be afforded the procedures set forth in this policy.

## Dismissal For Cause

Resident may be dismissed for cause during the period of appointment. Examples of cause for dismissal include, but are not limited to, the following:

- 1. Failure of Resident to meet the performance or conduct standards of the Residency Program;
- 2. Violation of the rules and regulations of Penn State Hershey Medical Center or a violation of the directions of the Program Director or of the director or coordinator of the service to which Resident is assigned;
- 3. Abuse or assault of any patient, colleague or teacher;
- 4. Refusal of rehabilitation for substance abuse;
- 5. Any conduct which is or would be detrimental to Penn State Hershey Medical Center operations, activities or interests:
- 6. Any breach of the "Resident Agreement"
- 7. Deficiencies in maintaining current medical records, including discharge summaries;
- 8. Lack of evidence of continuing self-education;
- 9. Persistent strife in professional relations; or
- 10. Lack of progress in developing acceptable clinical judgment.

### Dismissal Procedure

If the Program Resident Assessment Committee/Advisory Committee or its designate makes the decision that Resident shall not continue in the Program, the Department Chair shall notify Resident in writing immediately. The dismissal notice shall include a summary of the specific charge(s) and shall advise Resident of the right of appeal.

### **Appeal**

Appeal of a dismissal or suspension of fifteen (15) days or more may be filed within seven (7) days of receipt of the dismissal or suspension notice by submitting a written notice of appeal to the Department Chair. If an appeal is filed, the dismissal will be suspended pending conclusion of the appeal; provided, that when the cause of dismissal creates reasonable grounds to believe that there is a threat to the safety of patients, Resident, or other persons or property, or a threat to disrupt the essential operations of the Medical Center, the Department Chair may direct that all or part of Resident's duties be suspended pending conclusion of the appeal. While a dismissal is pending appeal, Resident will receive stipend and benefits. Failure to file written notice of appeal within seven (7) days of receipt of the dismissal or suspension notice shall constitute a waiver of Resident's opportunity to resort to the Appeal Board and Review procedure.

# 1. Appointment of Appeal Board

Upon receipt of an appeal, an Appeal Board will be appointed by the Senior Vice President for Health Affairs and Dean, consisting of the following: Vice Dean for Educational Affairs (presiding), the Chief Medical Officer of The Milton S. Hershey Medical Center, a senior resident in the same program as the appealing Resident, a resident designated by the Resident Council, and two senior members of the teaching faculty of the Medical Center.

# 2. Opportunity to Present Statements

The Appeal Board shall provide Resident an opportunity to present oral and written statements by Resident and other persons in support of the appeal. The Department Chair, or a designee, shall be responsible for presenting evidence in support of the dismissal. Specific procedures applicable to the appeal shall be adopted by the Appeal Board and furnished to the resident and the Department Chair.

## 3. Recommendation

The recommendation of the Appeal Board shall be submitted to the Chief Executive Officer, Senior Vice President for Health Affairs, and Dean, College of Medicine, who shall make the final decision with respect to the resident's continuation in the program.

### RESIDENT DUTY HOURS POLICY

POLICY STATEMENT: Resident Duty Hour Policy for the Penn State Hershey provides residents with a sound academic and clinical education that is carefully planned and balanced with concerns for patient safety and resident well-being. Appropriate limits are placed on duty hours to foster high-quality education and to promote institutional oversight. Each residency program must ensure that the learning objectives of the program are not compromised by excessive reliance on residents to fulfill service obligations. Didactic and clinical education must have priority in the allotment of residents' time and energies. Duty hour assignments must recognize that faculty and residents collectively have responsibility for the safety and welfare of patients.

## I. Duty Hours:

- 1. Duty hours are defined as all clinical and academic activities related to the residency program, i.e., patient care (both inpatient and outpatient), administrative duties related to patient care, the provision for transfer of patient care, time spent in-house during call activities, and scheduled academic activities such as conferences. Duty hours do not include reading and preparation time spent away from the duty site.
- 2. Residents must not be scheduled for more than 80 hours per week, averaged over a four-week period, inclusive of all in-house call activities. Individual programs may request an increase in the 80 hour per week limit of up to 10 percent, additionally, if they can provide a sound educational rationale.
- 3. Residents must have at least one full (24-hour) day out of seven free of all educational and clinical patient care duties, averaged over four weeks, inclusive of call. One day is defined as one continuous 24-hour period free from all clinical, educational, and administrative activities.
- 4. Residents should have a minimum rest period of 10 hours between all daily duty periods and after inhouse call.

### II. On-Call Activities

The objective of on-call activities is to provide residents with continuity of patient care experiences throughout a 24-hour period. In-house call is defined as those duty hours beyond the normal workday when residents are required to be immediately available in the assigned institution.

- 1. In-house call must occur no more frequently than every third night, averaged over a four-week period.
- 2. Continuous on-site duty, including in-house call, must not exceed 24 consecutive hours. Residents may remain on duty for up to six additional hours to participate in didactic activities, transfer care of patients, conduct outpatient clinics, and maintain continuity of medical and surgical care.
- 3. Residents may not assume responsibility for new patients after 24 hours of continuous duty, except in outpatient continuity clinics.
- 4. At-home call (pager call) is defined as call taken from outside the assigned institution.
  - A. The frequency of at-home call is not subject to the every third night limitation. However, at-home call must not be so frequent as to preclude rest and reasonable personal time for each resident. Residents taking at-home call must be provided with 1 day in 7 completely free from all educational and clinical responsibilities, averaged over a 4-week period.
  - B. When residents are called into the hospital from home, the hours residents spend in-house are counted toward the 80-hour limit.
  - C. The program director and the faculty must monitor the demands of at-home call in their programs and make scheduling adjustments as necessary to mitigate excessive service demands and/or fatigue.

# III. High-Quality Education and Safe and Effective Patient Care:

- 1. Didactic and clinical education must have priority in the allotment of residents' time and energies;
- 2. On-call schedules for attending/teaching staff must be structured to provide that supervision and faculty support/consultation is readily available to residents on duty;
- 3. Duty hour assignments in teaching settings must recognize that faculty and residents collectively have responsibility for the safety and welfare of patients;
- 4. Faculty and residents must be educated to recognize the signs of fatigue and to apply preventive and operational countermeasures. The program director and teaching faculty must monitor residents for the effects of sleep loss and fatigue, and respond in instances when fatigue may be detrimental to resident performance and well-being;
- 5. Programs must provide residents appropriate backup support when patient care responsibilities are especially difficult and prolonged, and if unexpected needs create resident fatigue sufficient to jeopardize patient care during or following on-call periods.

## IV. Institutional Oversight:

- 1. The Penn State Hershey will promote patient safety and education through duty hour assignments and faculty availability.
- 2. Each residency program must establish written policies governing resident duty hours that foster education and the safe care of patients. Duty hours must be consistent with the ACGME requirements, all applicable RRC Program Requirements, and must apply to all institutions to which residents rotate.
- 3. When an increase to duty hours is granted, up to 10 percent above the 80-hour weekly limit, the program must develop written protocols to be approved by the Graduate Medical Education Committee that detail the process for providing an educational rationale for the increase.
- 4. Policies on patient care activities outside the educational program (moonlighting) will be provided to residents. Because residency education is a full-time endeavor, the program director must ensure that moonlighting does not interfere with the ability of the resident to achieve the goals and objectives of the educational program.
- 5. Programs must have procedures and policies in place to monitor and support the physical and emotional well-being of residents to promote an educational environment and safe patient care.
- 6. Demands of home call must be monitored in the programs, and scheduling adjustments made as necessary to address excessive service demands and/or fatigue.
- 7. Patient care support services for IV, phlebotomy, and transport activities must be available to reduce resident time spent on these routine activities.
- 8. A monthly report will be reviewed and signed by the Associate Dean of Graduate Medical Education. This report will be presented to the Graduate Medical Education Committee on a quarterly basis. If necessary, the Associate Dean will meet with the program director concerning any violations.
- 9. A report will be presented annually to the Board of Directors on program and institutional compliance with the duty hour standards.

### IMPAIRMENT AND SUBSTANCE ABUSE POLICY

For the purposes of this policy, "impairment" is the inability of a resident to physically or mentally meet his or her responsibilities because of physical illness or injury, psychiatric or behavioral illness, dependency on alcohol and/or controlled substances or overuse of same or other condition.

Program Directors, faculty, and other medical center professionals are encouraged to be observant for signs of impairment from alcohol, drugs, and psychiatric or medical disorders among residents.

When impairment is suspected, the appropriate Program Director or Department Chair should be informed and should utilize available resources to investigate the situation and take appropriate actions, including intervention, when warranted.

It is our goal to provide intervention and rehabilitation for impaired residents and to support them during the process. However, dismissal is possible if the resident refuses such (see Resident Agreement).

Resources available to Program Directors, Department Chairs, faculty, or residents with respect to impairment include the Resident Assistance Program, the Student Mental Health Service, the Departments of Psychiatry and Social Services, and the Pennsylvania Medical Society's Physicians Health Programs.

# CONFLICT RESOLUTION & COMPLAINTS OF UNLAWFUL DISCRIMINATION AND HARASSMENT POLICY

### **PURPOSE**

Penn State Hershey Medical Center recognizes disputes and conflicts may arise in the employment setting. Parties involved in a conflict or dispute are encouraged to seek informal resolution. It is management's responsibility to facilitate fair and equitable resolution of conflict and disputes. In the event informal resolution is not possible, faculty and staff may pursue a formal resolution process.

Some items that are not covered under this policy are: rate of pay, performance ratings, employee benefits, hours of work or any position classification. Although these issues cannot be addressed through this procedure, they may be addressed through the Human Resources representative by making an appointment to discuss the specific issue

## POLICY & PROCEDURE

I. Conflict Resolution Process: A conflict or dispute in the workplace is an unresolved issue concerning interpretation and/or application of workplace policy, behavior, practice, or procedure.

### A. Informal resolution

- 1. Faculty and staff are encouraged to bring situations involving conflict or disputes to the attention of their direct supervisor within ten (10) calendar days following the incident or problem. If faculty or staff member identifies the conflict or dispute to be with their direct supervisor the employee may also seek resolution with other appropriate individuals, including the next level of management. Management is expected to make good-faith efforts to fairly and equitably resolve the situation.
- 2. Management is accountable to determine the issue(s) involved, applicable facts and the solution desired by the faculty/staff member.
- 3. At any point in the process, the faculty/staff member or supervisor may enlist Human Resources to assist the parties in resolving the issue. The informal resolution process may continue until either party or the Office of Human Resources decides informal resolution is not possible.
- 4. Management shall discuss with the employee the recommended action within ten (10) calendar days after the conflict or dispute has been brought to the attention of management.

## B. Formal resolution

- 1. Department review
  - a) The Department review level may be directed to the Administrative level by mutual written consent of the faculty or staff member and the department representative. Suspensions or terminations will be heard directly at the Administrative level.
  - b) To initiate a formal resolution, faculty/staff members must complete the Conflict Resolution Form describing the conflict, specifying the policy, behavior, practice and/or procedure violated and stating what they believe to be an appropriate resolution. The form must be presented to the supervisor or the next level of management within (10) calendar days after an informal resolution response, otherwise the conflict will be considered resolved.

- c) The direct supervisor or next level of management will consult with Human Resources to determine who will hear the conflict. Within ten (10) calendar days of receipt of the Conflict Resolution Form, management will schedule a meeting with the person to discuss the conflict. Management will then respond to the faculty/staff member by completing Section A of the Conflict Resolution Form within ten (10) calendar days after the meeting. Time limits may be extended by written mutual consent of both parties.
- d) If management's response is unsatisfactory, the faculty/staff member may forward a copy of the Conflict Resolution Form to the Administrator within ten (10) calendar days of receipt of management's response for a hearing at the Administrative review level.

### 2. Administrative review

- a) At the Administrative review level, a member of senior management with or without direct line authority will hear the conflict. Human Resources will provide consultation services to the parties throughout the proceedings. The Administrative review hearing will be conducted within ten (10) calendar days of receipt of the Conflict Resolution Form.
- b) The faculty/staff member or management may invite witnesses who can speak directly to the events giving rise to the conflict. Human Resources retains the right to limit the number of witnesses.
- c) All information presented will be kept confidential to the extent permissible by law and is practicable. To encourage open discussions, electronic reproduction or recording of the review meeting is not permitted.
- d) Legal representation or third party representation will not be allowed at any step in the Conflict Resolution.
- e) Within twenty-one (21) calendar days following the hearing, the senior manager will complete Section B of the Conflict Resolution Form, which will be considered final and binding. The senior management member will need to communicate the final and binding resolution to all involved parties.

## II. Complaints of Unlawful Discrimination and Harassment

PSHMC prohibits unlawful discrimination against any person on the basis of race, color, sex (including sexual harassment), religion, sexual orientation, age, national origin, disability, or status as a disabled veteran or veteran of the Vietnam era. Faculty, staff, and residents may bring a complaint under the Hospital's nondiscrimination policy. Complaints of sexual harassment will be processed in accordance with the Medical Center's sexual harassment policy, Policy\_HR-11.

PSHMC prohibits unlawful harassment against any person on the basis of race, color, sex, religion, sexual orientation, age, national origin, disability, or status as a disable veteran or veteran of the Vietnam era. Harassment is a conduct whether verbal, non-verbal or physical which creates an intimidating, hostile or offensive work or academic environment that unreasonable interferes with work or academic performance or negatively affects an individual's employment or academic opportunities. Complaints of harassment will be processed in accordance with this policy and with Policy HR-38 HAM, Personal Behavior and Communication Standards.

- A. Complaint resolution: A complaint alleging a violation of the Hospital's nondiscrimination or harassment policy may be taken to Office of Human Resources. The Office of Human Resources is responsible for investigation and resolution of discrimination and harassment complaints involving faculty, staff and residents. Complaints of alleged discrimination and harassment should be filed immediately upon notice of the event(s) on which the complaint is based.
- 1. Informal complaints The Office of Human Resources will assist with the informal resolution as described in this policy.
- 2. Formal complaints The individual may file a written formal complaint by completing the Discrimination/Harassment Complaint Form with the Office of Human Resources for investigation and resolution. Complaints should be filed immediately upon notice of the event(s) on which the complaint is based.
  - a) The party accused of discrimination or harassment will be informed of the allegations and will be afforded full opportunity to respond.
  - b) Investigations of formal complaints will begin promptly and should be concluded within 60 calendar days, whenever possible. Parties will produce information and names of witnesses.
  - c) At the conclusion of the investigation, the Office of Human Resources will inform parties of the outcome. If the investigation results in a finding of discrimination or harassment, recommendations will be made for prompt and effective action to correct the situation.

### B. Confidentiality

The Office of Human Resources will treat as confidential all information received in connection with the complaint process to the extent that it is feasible in the course of the investigation and is legally permissible. All involved parties to a complaint will be expected to be discreet and show respect for all individuals.

### C. Retaliation

Hospital policy and state and federal law prohibit retaliation against an individual for reporting complaints of discrimination or harassment, or for participating in an investigation. Retaliation is a serious violation that can subject the offender to sanctions independent of the merits of the complaint of discrimination or harassment.

### D. Record keeping

Any person conducting an investigation, whether formal or informal will maintain a written record of witness interviews, consent provided, evidence gathered, and outcome. Records of such investigation will not be maintained in personnel files unless part of formal correction action. The Office of Human Resources will maintain investigatory records. If a complaint is filed outside the Hospital, information gathered in the course of the internal investigation may be disclosed to the investigating agency.

E. Additionally, any employee who believes they have been discriminated against may file a complaint of discrimination with any of the following:

Department of Public Welfare Bureau of Equal Opportunity Room 223, Health and Welfare Building Harrisburg, Pa 17105 Pa Human Relations Commission Harrisburg Regional Office Riverfront Office Center 1101 S. Front Street, 5th Floor Harrisburg, Pa 17104

U. S. Department of Health and Human Services Office for Civil rights Suite 372, Public Ledger Building 50 South Independence Mall West Philadelphia, Pa 19106-9111

### **APPLICATION**

This policy applies to all full-time, part-time, and per diem faculty, staff and residents employed by the Penn State Hershey Medical Center. Introductory employees are not eligible to request formal resolution regarding a disciplinary actions or job performance issues.

### RESOURCES

For consultation: Office of Human Resources, 717-531-8440 Human Resources *Infonet* Home Page

For forms:

Conflict Resolution Form http://infonet.hmc.psu.edu/hr/forms/index.htm

Discrimination/Harassment Complaint Form http://infonet.hmc.psu.edu/hr/forms/index.htm

For more information:

Personal Behavior and Communication Standards Policy, HR-38 http://infonet.hmc.psu.edu/policy/HospitalAdmin/index.htm

Sexual Harassment Policy, HR-11 http://infonet.hmc/psu.edu/policy/HumanResources/hrm11.htm

## SEXUAL HARRASSMENT POLICY

#### PURPOSE

To establish Penn State Hershey Medical Center's (PSHMC) policy prohibiting sexual harassment.

### **POLICY**

Sexual harassment of faculty, staff or students is prohibited and will not be tolerated at Penn State Hershey Medical Center. It is the policy of Penn State Hershey Medical Center to maintain an academic and work environment free of sexual harassment. Sexual harassment violates the dignity of individuals and impedes the realization of Penn State Hershey Medical Center's missions. Penn State Hershey Medical Center is committed to preventing and eliminating sexual harassment of faculty, staff and students through education and by encouraging faculty, staff and students to report any concerns or complaints about sexual harassment. Prompt corrective measures will be taken to stop sexual harassment whenever and wherever it occurs.

### **DEFINITIONS**

Sexual harassment has been defined by the U.S. Equal Employment Opportunity Commission as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- 1. submission to such conduct is a condition for employment, promotion, grades or academic status;
- 2. submission to or rejection of such conduct is used as the basis for employment or academic or other decisions affecting an individual;
- 3. such conduct has the purpose or effect of interfering unreasonably with the individual's work or academic performance or creates an offensive, hostile, or intimidating working or learning environment

### CONSENSUAL RELATIONSHIPS

Romantic and/or sexual relationships between faculty and students, staff and students or supervisors and subordinate employees are strongly discouraged. Such relationships have the potential for adverse consequences, including the filing of charges of sexual harassment. Given the fundamentally asymmetric nature of the relationship where one party has the power to give grades, thesis advice, evaluations, recommendations, promotions, salary increases or performance evaluations, the apparent consensual nature of the relationship is inherently suspect.

Even when both parties have consented to the relationship, there may be perceptions of conflicts of interest or unfair treatment of others. Such perceptions undermine the atmosphere of trust essential to the educational process or the employment relationship. Under such circumstances, the person in the position of supervision or academic responsibility must immediately report the relationship to his or her immediate supervisor. Once the consensual relationship is reported, the immediate supervisor is responsible for eliminating or mitigating the conflict of interest to the fullest feasible extent and ensuring that fair and objective processes are in place for decisions relative to grading, thesis advice, evaluations, recommendations, promotions, salary increases or performance evaluations. The new supervisory or academic arrangement should be documented.

### RESOLUTION OF SEXUAL HARASSMENT COMPLAINTS

The Human Resources Office and Office of Diversity, Inclusion, and Employment Equity have primary responsibility for resolving sexual harassment complaints.

Any member of Penn State Hershey Medical Center community who experiences sexual harassment should immediately report the incident to the Human Resources Office or Office of Diversity, Inclusion, and Employment Equity.

Penn State Hershey Medical Center Human Resources Office and Office of Diversity, Inclusion, and Employment Equity will make every effort to promptly investigate and resolve complaints of sexual harassment, with due regard for fairness and the rights of both the complainant and alleged offender, and to conduct all proceedings in the most confidential manner possible. If unsuccessful at resolving the issue informally, the Human Resources Office or Office of Diversity, Inclusion, and Employment Equity may investigate to gather information necessary to reach a formal determination on the merits of the allegations. Investigations will include notifying the alleged offender of the complaint and providing an opportunity to respond to the allegations.

If there is evidence of sexual harassment, Penn State Hershey Medical Center will make every effort to ensure the harassment immediately stops and does not recur. The complainant will be informed of the corrective measures taken.

Penn State Hershey Medical Center prohibits retaliation against anyone who files a complaint and/or participates in an investigation involving alleged sexual harassment.

## **DISCIPLINARY SANCTIONS**

Disciplinary sanctions for violation of this policy, which may range from a reprimand to dismissal from Penn State Hershey Medical Center, will be imposed in accordance with applicable policies. Document all information.

### AMERICANS WITH DISABILITIES ACT POLICY

### **POLICY**

Penn State Hershey Medical Center (PSHMC) prohibits discrimination on the basis of disability and maintains a policy of compliance with all federal and state laws regarding disability, including the Americans with Disabilities Act (ADA). In compliance with the ADA, Penn State Hershey Medical Center will make "reasonable accommodations" for qualified individuals with disabilities.

### **DEFINITIONS**

- 1. An individual with a "disability" is a person who:
  - Has a physical or mental impairment that substantially limits one or more major life activities;
  - Has a record of such an impairment; or
  - Is regarded as having such an impairment (under the ADA Amendments Act of 2008, PSHMC is not obligated to provide Reasonable Accommodations to an individual who is covered only under the "regarded as" prong.)

NOTE: Temporary, non-chronic impairments of short duration, with little or no long term or permanent impact, are usually not disabilities; therefore accommodations for temporary impairments are not required under the ADA. Examples of such impairments may include, but are not limited to, broken limbs, sprained joints, concussions, appendicitis, and influenza.

- 2. A "qualified employee or applicant with a disability" is an individual who, with or without reasonable accommodation, can perform the essential functions of the job in question.
- 3. "Reasonable accommodations" should enable the employee to perform the essential functions of the job. PSHMC is not obligated to make an accommodation that imposes an "undue hardship" on its operation of business. Examples of reasonable accommodations include, but are not limited to:
  - Making existing facilities used by employees readily accessible to and usable by persons with disabilities;
  - Job restructuring, modifying work schedules, reassignment to a vacant position;
  - Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, policies, and providing qualified readers or interpreters.
- 4. An "undue hardship" is defined as an action requiring significant difficulty or expense when considered in light of factors such as an employer's size, financial resources, and the nature and structure of its operation.

### **GUIDING PRINCIPLES**

- 1. PSHMC will not tolerate discrimination against qualified individuals with disabilities. If you believe you have been discriminated against in the employment or accommodation process with respect to a disability, promptly report the matter to the Office of Human Resources. Refer to the Conflict Resolution and Complaints of Unlawful Discrimination and Harassment policy HR-07 for additional information on filing a complaint with the Office of Human Resources. All complaints of discrimination or similar prohibited conduct will be thoroughly investigated.
- 2. Management and supervisory personnel must comply with this policy and the ADA, and any who fail to do so shall be subject to appropriate disciplinary action up to and including termination.

- 3. On a case by case basis, good faith efforts will be emphasized to assure reasonable accommodation for persons with disabilities who require accommodation to effectively perform the duties of their respective job description.
- 4. Prohibition against retaliation: No person shall discriminate against any individual because such individual has opposed any act or practice made unlawful by the ADA or because such individual made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the ADA.
- 5. All employees should be prepared to make reasonable accommodations, consistent with Penn State Hershey Medical Center's business needs, for individuals with disabilities.

### **PROCEDURE**

- 1. It is the responsibility of the employee with a disability to inform PSHMC that an accommodation is needed. Appropriate documentation will be required to determine if the employee has a disability covered by the ADA and functional limitations which will be used as a guideline for effective and reasonable accommodation determination.
- 2. To request an accommodation, employees should contact their Manager or Human Resources and ask for an *Accommodation Request Form*. Inquiries regarding specific building or work site accessibility or accommodation should be directed to Human Resources for further review and coordination with the Facilities department. The completed *Accommodation Request Form* should be submitted to Human Resources. For assistance with completing the Accommodation Request Form, contact Human Resources.
- 3. Upon receipt of a completed *Accommodation Request Form*, Human Resources along with management will initiate a discussion with the individual requesting an accommodation to identify, what if any, reasonable accommodation exists.

## REDUCTION OR CLOSURE POLICY

Penn State Hershey Medical Center recognizes the need and benefits of Graduate Medical Education and sponsors programs, which emphasize personal, clinical and professional development. The Graduate Medical Education Committee ensures that its training programs are in substantial compliance with the institutional and special requirements of the Accreditation Council for Graduate Medical Education (ACGME) and its individual Residency Review Committees. These circumstances and procedures also apply in the event of institutional closure.

- A. Circumstances that may lead to reduction in size or closing of a training program:
  - a. Failure of the training program to correct concerns and/or comply with recommendations of the GME Committee
  - b. Failure of the training program to correct citations of the ACGME
  - c. Decreased financial or educational resources to support the training program

### B. Procedure:

- a. Penn State Hershey Medical Center must inform the GME Committee, the Designated Institution Official, and residents as soon as possible when it intends to reduce the size of a program or close a program or close the institution.
- b. The residents currently training in the program will be notified immediately.
- c. Every attempt will be made to reduce the number of positions over a period of time so residents already in the program can complete their education.
- d. If this is not possible, the program director will assist the residents in enrolling in an ACGME-accredited program in which they can continue their education.