

**OPERATING PROCEDURE NO. 20-32<sup>1</sup>**

**Equal Employment Opportunity (EEO) Policy and Program**

**Effective Date:** August , 2020 approved by Mitchell Katz, MD President and CEO

**Responsible Department:** The Office of Equal Employment Opportunity (EEO)

**Sub-Department:** The Office of Legal Affairs

**Required Date of Review:** September 30, 2022



**I. PURPOSE:**

NYC Health + Hospitals (hereafter, the System) is committed to providing equal employment opportunities (EEO) to all employees and applicants for employment without regard to actual or perceived race, color, national origin, alienage or citizenship status, religion/creed, sex and/or gender (including sexual harassment<sup>2</sup>, pregnancy and “gender identity” ( which refers to a person’s actual or perceived sex and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, age, pregnancy, prior record of arrest or conviction, marital status, partnership status, familial status, caregiver status, genetic information or predisposing genetic characteristics, sexual orientation, unemployment status, salary history, credit history, status as a veteran or active military member, status as a victim or witness of domestic violence, sex offenses or stalking; sexual and reproductive health decisions<sup>3</sup>; and/or membership in any other protected class covered by federal, state and/or local anti-discrimination laws.

This Operating Procedure is intended to provide all applicable policies and procedures with respect to the System’s Equal Employment Opportunity Program. Further, this Operating

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This Operating Procedure supersedes Operating Procedure 20-32, “Equal Employment Opportunity Program dated September 1, 2018.

<sup>2</sup> Sexual harassment, a form of gender-based discrimination, is unwelcome verbal or physical behavior based on a person’s gender and is prohibited under federal, state, and the New York City Human Rights Law. On May 8, 2018, Mayor Bill DeBlasio signed the “Stop Sexual Harassment in NYC Act,” a comprehensive legislative package aimed at addressing and preventing sexual harassment in the workplace.

<sup>3</sup>The term “sexual and reproductive health decisions” means any decision by an individual to receive services, which are arranged for or offered or provided to individuals relating to sexual and reproductive health, including the reproductive system and its functions. Such services include, but are not limited to, fertility-related medical procedures, sexually transmitted disease prevention, testing, treatment and family planning services and counseling, such as birth control drugs and supplies, emergency contraception, sterilization procedures, pregnancy testing and abortion.

Procedure serves to remind all staff as to their rights and responsibilities with respect to fostering and maintaining a workplace of equal employment opportunity and to ensure compliance with all applicable federal, state and local antidiscrimination laws.

## **II. SCOPE:**

Everyone who works for the System, or is an applicant for employment with the System, is covered by federal, state, and/or local anti-discrimination laws as well as this Policy. This includes current employees, volunteers, temporary staff, and job applicants. Further, the System is committed to a workplace free from discrimination and/or retaliation. All System employees are expected to be respectful of everyone in the System's workplace (including, but not limited to, contractors, affiliates, vendors, patients, etc.) and members of the public, and to be sensitive to the effects of their behavior on those around them. All affiliates contractors and/or other non-System employees assigned to a System facility are required to comply with the System's EEO Policy consistent with the terms of their affiliation agreements, service contracts, and/or applicable agreements, rules, regulations, and laws.

This Policy not only protects individuals from prohibited conduct because of their own protected status (such as their own actual or perceived race, religion, national origin or disability), but also protects individuals from conduct motivated by the actual or perceived race, religion, national origin, or disability, etc., of other persons with whom they are associated. For example, this Policy applies to individuals who are subjected to adverse actions because of their marriage to, or domestic partnership or association with, persons of a particular racial, religious, or national origin group, or persons who have a disability.

The System's EEO Policy extends to conduct which occurs at any location that could be reasonably regarded as an extension of the workplace, such as any field location, work conferences/trade shows, offsite business-related or System-sponsored social functions (e.g. System sponsored holiday party), System vehicle, or facility where System business is being conducted and discussed.

## **III. POLICY:**

It is the policy of the System to recruit, select, train and promote, into all job levels, the most qualified individuals without regard to actual or perceived race, color, national origin, alienage or citizenship status, religion/creed, gender (including sexual harassment and/or "gender identity" – which refers to a person's actual or perceived sex and includes self-image, appearance, behavior or expression, whether or not different from that traditionally associated with the legal sex assigned to the person at birth), disability, age, pregnancy, prior record of arrest or conviction, marital status, partnership status, familial status, caregiver status, genetic information or predisposing genetic characteristics, sexual orientation, unemployment status, salary history, credit history, status as a veteran or active military member, status as a victim

or witness of domestic violence, sex offenses or stalking, and/or any other protected class covered by federal, state and/or local anti-discrimination laws.

To achieve and maintain an atmosphere of opportunity and equality, the System has in place an Equal Employment Opportunity (“EEO”) Office staffed by EEO personnel. The Office of Equal Employment Opportunity (EEO) is responsible for the day-to-day implementation and monitoring of the Equal Employment Opportunity Program under the supervision of the Office of Legal Affairs. Each NYC Health + Hospitals facility has a designated EEO staff member who oversees compliance with this Policy. However, it is the responsibility of all employees of the System to ensure compliance with the System’s EEO policies and obligations, to prevent discrimination in the work place, and to ensure that all employees and applicants for employment are given the opportunity to realize their full potential.

**A. Types of Prohibited Conduct**

Decisions and practices based on an individual’s protected status (e.g., race, religion, age, and/or the other previously listed categories) that unlawfully affects the terms and conditions of employment or potential employment with the System are prohibited by this Policy. This includes unlawful decisions, actions, and practices that occur in the course of recruitment, testing, hiring, work assignments, salary and benefits, working conditions, performance evaluations, promotions, training opportunities, career development and advancement, transfers, discipline, discharge, or any other application or selection process relating to employment.

This Policy prohibits sexual harassment (i.e., unwelcome conduct or language of a sexual nature) and harassment based on any other protected characteristic (such as race, gender, religion, disability, or sexual orientation). In addition, this Policy prohibits conduct which unreasonably interferes with an employee’s job performance or creates an intimidating, hostile, or offensive working environment based on any protected characteristic. Harassment and/or retaliation against a person who opposes or complains about prohibited conduct or participates in any way in the complaint and/or investigation of an EEO-related matter or in the reasonable accommodation process are strictly prohibited.

This Policy also prohibits the denial of reasonable accommodations for disabilities; pregnancy, childbirth, and related medical conditions; sincerely held religious beliefs, observances, and practices; and/or status as a victim of domestic violence, sex offenses, or stalking. As set forth in more detail later in this policy, all requests for a reasonable accommodation based on a disability; pregnancy, childbirth, or a related medical condition; and/or status as a victim of domestic violence, sex offenses, or stalking; must be made with and/or referred to the Office of EEO.

In addition, this Policy prohibits any employee of the System from aiding, abetting, inciting, compelling, or coercing any person present in a facility of the System, whether or not that

person is an employee of the System, from engaging in any conduct prohibited by this Policy, including, but not limited to, conduct that creates a hostile work environment based on any protected characteristic.

Some offensive acts or remarks may be violations of other policies of the System concerning codes of conduct and professional behavior even if they are not so severe that they violate federal, state, or local discrimination laws. The System may discipline conduct that violates such policies even if the conduct does not violate this Policy.

## **B. Specific Protections**

The following sections are provided to enable individuals to understand the issues, rights, and responsibilities under this Policy pertaining to discrimination, sexual harassment and discrimination based on disability, genetic information, retaliation and status as a victim of domestic violence, sex offenses, or stalking.

### **1. Sexual Harassment**

NYC Health + Hospitals is committed to maintaining a workplace free from sexual harassment. Sexual harassment is unlawful and subjects NYC Health + Hospitals to liability. The System is committed to eliminating such practices through heightened employee awareness, training, and prompt investigations of allegations. Sexual harassment is prohibited under federal, state and local antidiscrimination laws, including but not limited to Section 703 of Title VII of the Civil Rights Act of 1964 as amended, the New York State Human Rights Law, and the New York City Human Rights Law.

Sexual harassment is any unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature in which someone's submission to or rejection of the conduct is made part of their employment, used as the basis for employment decisions affecting them, or the conduct unreasonable interferes with their work or created an intimidating, hostile or offensive work environment. A broad range of behavior may be considered sexual harassment, including sexually suggestive remarks, pictures or gestures, verbal abuse or harassment of a sexual nature, subtle or direct propositions for sexual favors, and any unnecessary touching, patting, or pinching.

The key word is 'unwelcome' indicating that the conduct must not be wanted or solicited. This policy is not intended to regulate social interactions in the work place. When a person makes it known that the sexual overture or conduct is unwelcome, then it must stop immediately.

The following describes some of the types of acts that may be considered sexual harassment:

- Physical assaults of a sexual nature, such as;

- Rape, sexual battery, molestation, or attempts to commit these assaults. Intentional or unintentional physical conduct which is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee's body, or poling another employees' body.
- Unwanted sexual advances, propositions or other sexual comments, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the victim's job performance evaluation, a promotion, or other job benefits or detriments;
  - Subtle or obvious pressure for unwelcome sexual activities;
  - Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience which are sufficiently severe or pervasive to create a hostile work environment.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as;
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning, pornographic.

Sexual harassment may involve individuals of the same or different gender(s) and can include a complaint by or against a manager or employees of the same rank or against a non-employee.

Any employee of NYC Health + Hospitals who believes that they have experienced sexual harassment and/or are made aware that sexual harassment occurred, even if it does not involve themselves, should contact the Office of EEO. In addition, employees are encouraged to be an ally to any person who was harassed by letting them know that they saw what happened to them and encouraging them to report the behavior to the office of EEO. Any supervisor or manager that witnesses and/or is made aware that sexual harassment occurred must report it to the office of EEO.

Please note that pursuant to the System's EEO Internal Complaint process, whenever the Office of EEO receives a complaint of sexual harassment or otherwise knows of possible sexual harassment occurring, it will investigate. Those who are found to have engaged in sexual harassment and/ or any supervisory or managerial personnel who knowingly allows such behavior to continue will be subject to appropriate sanctions, including but not limited to disciplinary and/or corrective actions as deemed appropriate. Retaliation against those who complain of sexual harassment or who testify, assist or participate in an investigation, proceeding, or hearing involving a complaint of sexual harassment is unlawful and strictly prohibited by this policy. Some examples of retaliation could include a termination or failure to hire, a demotion, a decrease in pay, a decrease in the number of hours worked, poor performance, evaluation/rating, etc.

## **2. Disability**

In accordance with the Americans with Disabilities Act (ADA), as well as all other federal, state and local anti-discrimination laws, it is the policy of the System to provide equal employment opportunity to persons with disabilities with respect to all personnel practices, including, but not limited to, hiring, recruitment, advertising, promotion, training, compensation and benefits. Discrimination against a person based on that person's actual or perceived disability, or relationship with a person with a disability will not be tolerated by the System. For purposes of this Policy, a disability is: 1) a physical, medical, mental, or psychological impairment; 2) a history or record of such impairment; or 3) being regarded as having such impairment.

The System provides reasonable accommodation to its employees and applicants with disabilities to enable them to perform the essential functions of their job. The Office EEO is responsible for overseeing and coordinating requests for reasonable accommodation received from employees or applicants for hire. In order to request an accommodation, the individual shall make a request with the Office of EEO.

### **3. Genetic Information Non-Discrimination Act (GINA)**

The System, in keeping with Title II of the Genetic Information Non-Discrimination Act (GINA), hereby confirms its commitment to prevent the misuse of certain information for employment purposes.

The System respects all employees' privacy of their genetic information and enforces a strict policy of non-discrimination on the basis of genetic information. It is a violation of this Policy to discriminate, harass or retaliate on the basis of genetic information when it comes to all aspects of employment. This includes unlawful decisions, actions, and practices that occur in the court of recruitment, testing, hiring, work assignments, determination of salary and benefits, working conditions, performance evaluations, promotions, training opportunities, career development and advancement, transfers, discipline, discharge, or any other application or selection process relation to employment. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about any disease, disorder or condition of an individual's family members (i.e. family medical history).

### **4. Status as Victim of Domestic Violence, Sex Offenses, or Stalking**

The New York City Human Rights Law prohibits employment discrimination against an individual in the terms, conditions, compensation or privileges of employment because of the actual or perceived status as a victim of domestic violence, or victim of sex offenses or stalking.

The System provides reasonable accommodation to its employees and applicants for hire who are victims of domestic violence, sex offenses or stalking to enable them to perform the

essential requisites of their job. The Office of EEO is responsible for overseeing and coordinating requests for reasonable accommodation received from employees or applicants for hire. In order to request an accommodation, the individual shall make a request with the Office of EEO.

## **5. Retaliation**

It is a violation of this Policy to retaliate against or harass any person who asserts their rights regarding claims of employment discrimination by: 1) opposing discriminatory practices in the workplace; 2) complaining about prohibited conduct; or 3) participating in any way in the complaint and/or investigation of an EEO-related matter or in the reasonable accommodation process. It is also a violation of this Policy to retaliate against or harass someone because of their association with such an individual.

Behaviors which may be considered retaliatory include, but are not limited to, threats, reprimands, negative evaluations, harassment, refusal to hire, denial of promotion or job benefits, demotion, suspension, discharge, or other actions affecting the terms, conditions, or privileges of employment.

Examples of behavior that are protected against retaliation under this Policy include, but are not limited to, expressing an intent to file or filing a charge or complaint alleging prohibited conduct under this Policy; participating as a witness in an EEO investigation, an EEO administrative proceeding, hearing, or trial; and/or seeking a reasonable accommodation

## **IV. PROCEDURES:**

### **1. Requests for Reasonable Accommodations**

The System shall provide reasonable accommodations to qualified employees or job applicants unless doing so would cause an undue hardship. Reasonable accommodation requests may be made in connection with disabilities<sup>4</sup>; pregnancy, childbirth, or a related medical condition; sincerely held religious beliefs, observances, and practices; or for victims of domestic violence, sex offenses, or stalking.

Whether an accommodation is reasonable will depend upon the circumstances of the particular request. Undue hardship may exist when an accommodation is significantly

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<sup>4</sup> The System treats leave requests to address medical or health care needs related to any individual's gender identity in the same manner as requests for all medical conditions. In addition, the System provides reasonable accommodations to individuals undergoing gender transition, including medical leave for medical and counseling appointments, surgery and recovery from gender affirming procedures, surgeries and treatments as it would for any other medical condition.

difficult or unduly costly, extensive, substantial, disruptive, or would fundamentally change the nature or operation of the System's business.

The Office of EEO is responsible for overseeing and coordinating requests for reasonable accommodations received from employees and job applicants for disabilities; pregnancy, childbirth, or a related medical condition; or for victims of domestic violence, sex offenses, or stalking. All requests for a reasonable accommodation for these categories must be made with and/or referred to the Office of EEO. Supervisors, managers, or human resources personnel who become aware of any employee or job applicants request for a reasonable accommodation must notify the Office of EEO. As set forth in section 1.B below, requests for reasonable accommodations based upon sincerely-held religious beliefs, practices or observance shall be made in accordance with Operating Procedure 20-18, and directed to the employee's senior manager.

In order to request a reasonable accommodation for a disability, the employee or job applicant shall make a request to the Office of EEO by completing a reasonable accommodation request form and providing supporting documentation (as applicable). Requests for a reasonable accommodation may also be referred to the Office of EEO through Human Resources, the Occupational Health and Safety Department (OHS) or from the employee's department. Upon receipt and/or notice of an employee's need for a reasonable accommodation, the assigned EEO personnel will engage in the interactive process to clarify the employee's functional limitations and identify the appropriate reasonable accommodation(s). In order to determine an employee's essential functions, the reasonableness of a request, and/or whether or not such a request would impose an undue hardship, the EEO personnel will engage in an interactive dialogue with the employee's department to discuss if and how the requested reasonable accommodation can be effectuated by the department without imposing an undue hardship and, when appropriate, discuss alternative accommodations with the employee. Whether an accommodation is reasonable will depend upon the circumstances of the particular request.

The following details the specific aspects of each type of request:

#### **A. Disabilities**

An employee or job applicant with a disability who requests reasonable accommodation(s) to enable them to perform the essential functions of the job, or to enjoy the benefits and privileges of employment, may make such requests to the Office of EEO. The EEO personnel involved in the process shall provide reasonable assistance (such as help in completing forms) to an individual requesting an accommodation. Additionally, if a reasonable accommodation is requested to facilitate an individual's ability to apply for employment, the staff supervising the application procedures may be required to assist the applicant in completing the application process. All documentation and information concerning the medical condition or history of an individual requesting a reasonable



accommodation for a disability shall be collected and maintained by the Office of EEO separately and apart from the individual's personnel and labor files. Such information will be treated as confidential records, except that managers and supervisors may be informed of limitations, work restrictions and reasonable accommodations requested. Furthermore, medical information may be provided: 1) to first-aid and safety personnel if the disability might require emergency treatment; 2) to government officials investigating the System's compliance with applicable laws; 3) to workers' compensation offices in accordance with Workers' Compensation Law; and 4) for insurance purposes.

## **B. Religion**

The System shall grant requests by employees and job applicants for a reasonable accommodation of the individual's sincerely-held religious beliefs, practices or observances unless granting such request will cause an undue hardship to the operation of the applicable facility. Requests for religious accommodations should be made in writing to the individual's "Senior Manager" as set forth in NYC Health + Hospitals Operating Procedure 20-18, "**Corporation Policy With Respect To Requests For Religious Accommodation.**" Please refer to Operating Procedure 20-18 for further guidance on the System's Policy regarding requests for religious accommodation.

## **C. Victim of Domestic Violence, Sex Offenses, or Stalking**

Employees or applicants requesting reasonable accommodations in connection to their status as a victim of domestic violence, sex offenses or stalking may make such requests to the Office of EEO. Certification of one's status as a victim of domestic violence, sex offenses, or stalking may be requested by the EEO personnel handling the accommodation request. A person may satisfy the certification requirement by providing documentation from an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or medical or other professional service provider from whom the individual seeking a reasonable accommodation, or that individual's family or household member, has sought assistance in addressing domestic violence, sex offenses, or stalking and the effects of the violence or stalking; a police or court record; or other information consistent with the disclosure and the request for accommodation.

## **D. Pregnancy, Childbirth or Related Medical Condition**

Employees or job applicants who require a reasonable accommodation on the basis of pregnancy, childbirth, or a related medical condition are urged to promptly request an accommodation with the Office of EEO. Supervisors, managers, or human resources personnel who become aware of any employee or job applicants request for a reasonable accommodation must notify the Office of EEO. The System shall provide reasonable accommodation to employees or job applicants on the basis of pregnancy, childbirth, or a related medical condition unless to do so would cause undue hardship. Such reasonable

accommodations may include, but is not limited to bathroom breaks; leave for a period of disability arising from pregnancy, childbirth, or related medical conditions; breaks to facilitate increased water intake; breaks for the purpose of expressing breast milk; periodic rest for those who stand for long periods of time; and assistance with manual labor, among other things. If granted, the reasonable accommodation shall allow the individual to perform the “essential requisites” of their job.

## **2. Internal Complaint Procedure**

### **A. Reporting Violations of the EEO Policy**

Employees or job applicants of the System who believe that they have been subjected to any action, decision, or harassment in violation of this Policy, or who witness others being subjected to conduct covered by this Policy, are urged to promptly report the incident(s) to the Office of EEO. Supervisors, managers, or human resources personnel who become aware of any claimed violations of this Policy must notify the Office of EEO. Supervisors, managers, or human resources personnel who become aware of any claimed violations of this Policy must notify the Office of EEO. Please note that a complaint can be filed against a non-System employee, including but not limited to, affiliates, contractors, members of the public, and/or other non-System employees assigned to a System facility. In such cases, the Office of EEO may contact the non-employee and/or issue recommendations for remedial action consistent with the terms of their affiliation agreements, service contracts, and/or applicable agreements, rules, and regulations. In certain circumstances, a joint investigation between the System’s Office of EEO and the non-employee’s employer may be appropriate. Further, should the Office of EEO receive a complaint against a System employee from a non-employee, the Office of EEO may investigate, and/or joint investigation with the non-employee’s employer, and issue recommendations for remedial action as deemed appropriate.

Complaints should be in writing and directed to the Office of EEO within one (1) year of the most recent alleged discriminatory action, except in the case of allegations of sexual harassment, which must be in writing and filed within three (3) years of the most recent alleged instance of sexual harassment. Complaint forms may be obtained from Office of EEO and/or the NYC Health + Hospitals Intranet portal. The complaint should include the name, contact information and signature of the person filing the complaint and a detailed description of the action alleged. It may be filed by personal delivery, electronic mail, or ordinary mail, addressed to the Office of EEO.

The person making the complaint may do so anonymously, if they choose. Anonymous complaints will be treated the same as identified complaints, to the extent possible. A complaint may be filed by an employee, a former employee, independent contractor, a consultant, a volunteer, an intern, a student, or an applicant for System employment. A complaint may be filed on the Complainant’s own behalf or on behalf of someone else. Supervisors and managers are required under this Policy to timely notify their EEO Office of any alleged discriminatory conduct they observe or become aware of.

After the submission of a written complaint to the Office of EEO, the assigned EEO personnel will review the complaint to determine if it alleges a violation of the EEO Policy. If so, the assigned EEO personnel will investigate of the complaint. If deemed necessary, as part of the investigation, separate meetings will be arranged to discuss allegations with the person who submitted the complaint, the person who is alleged to have violated the EEO Policy, potential witnesses and/or other persons who could contribute any information regarding the allegations. All internal complaints shall be responded to by the assigned EEO personnel as soon as practicable based on the unique facts and circumstances of the complaint.

After the investigation, the assigned EEO personnel will make a determination of whether a violation of this Policy has occurred. If it is determined that there is no violation of the EEO Policy, the complaint will be closed with such notice of determination sent to the Complainant and the Respondent. If it is determined that there is reasonable cause to believe that the EEO Policy was violated or that behavior inconsistent with the Policy occurred, such notice of determination will be provided to the parties. Where appropriate, and where it has been determined that there is reasonable cause to believe that the EEO policy was violated or that behavior inconsistent with the Policy occurred, remedial and corrective measures will be taken by the Office of EEO and/or the matter will be referred to Human Resources, Labor Relations and/or another department as deemed appropriate.

## **B. Complaints against Senior Management Staff**

Complaints against senior management staff (President, Senior Vice Presidents, Vice Presidents, Executive Directors, and General Counsel) and/or members of the Board of Directors may be filed with the Office of EEO at Central Office. The Office of EEO and the Office of Legal Affairs, in consultation, will determine whether the investigation will be conducted by the Office of EEO or by an independent investigator, as appropriate. Where the General Counsel is named as a respondent, the complaint will be referred to the President of NYC Health + Hospitals for the assignment of an investigator. The investigative findings and recommendations of an independent investigator, before finalization, shall be shared with the Office of EEO and/or the Office of Legal Affairs, except where the General Counsel has been named as a respondent. The Office of EEO or the Office of Legal Affairs shall refer the investigative findings and recommendations to either the President or Board of Directors, as appropriate. In those instances where the General Counsel is named as a respondent, the findings will be referred to the President of NYC Health + Hospitals.

### **1. Complaints by Staff assigned to the Office of Equal Employment Opportunity**

Complaints by staff of the Office of Equal Employment Opportunity of sexual harassment, discrimination, or any other conduct that they believe is prohibited by this Operating Procedure and/or the New York City Human Rights Law can be submitted to the System's Office of Corporate Compliance. All such complaints shall be forwarded to the General Counsel for assignment of an independent investigator. The investigative findings and recommendations of an independent investigation, before finalization, shall be shared with the General Counsel.

Any remedial or corrective action taken in connection with the investigative findings will be shared with the Office of Corporate Compliance. The reporting process described in this paragraph is available to EEO staff in addition to existing reporting mechanisms provided by the Operating Procedure.

### **C. Cooperating in an Investigation**

All current employees, volunteers, and temporary staff, are required to cooperate fully during an investigation into an EEO complaint. Failure or refusal to cooperate may result in a recommendation for disciplinary action.

### **D. Confidentiality**

All EEO complaints and investigations will be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. While all internal EEO investigations will be conducted in a confidential manner, certain exceptions apply. In the course of the investigation, the assigned EEO personnel may discuss EEO matters with other individuals who may have information about a complaint. In addition, it may be necessary for the assigned EEO personnel to disclose certain information on a need to know basis. The Office of EEO may disclose to persons with a legitimate need to know certain information in order to respond to the complaint allegations or to implement interim or corrective action, including but not limited to disciplinary action (e.g. certain information regarding the complaint and witness statements may be shared with Labor Relations and/or Human Resource in order to determine whether further action/s should be taken). All persons with whom the Office of EEO interacts concerning the complaint and its investigation are to refrain from discussing the complaint, to the extent possible, beyond their interaction with the Office of EEO.

### **E. Allegations Made in Bad Faith**

If any employee knowingly makes a false accusation of discrimination or knowingly provides information in bad faith in the course of an investigation of a complaint, such conduct may be grounds for discipline. A complaint made in good faith, even if found to be unsubstantiated, will not be considered a false accusation.

### **F. Contact with the EEO Office**

An employee has a right to meet privately with the Office of EEO. Such meeting may take place either during or outside of office hours. If an employee makes a request to meet with an EEO personnel during office hours, the employee should obtain approval from a manager or supervisor before leaving their work assignment. An employee need not disclose to the manager/supervisor the purpose for or details of the meeting with the EEO personnel. Reasonable requests to meet with an EEO personnel during work hours should not be denied by managers or supervisors. Managers and supervisors shall allow employees to meet with

EEO personnel at the earliest practical time consistent with the operational needs of their units.

At the employee's request, arrangements may also be made to hold the EEO meeting before or after office hours, or during the employee's lunch period. Should such a meeting take place entirely on the employee's own time, he or she need not advise a manager or supervisor of the meeting, or obtain the consent or approval of a manager or supervisor. If necessary, the EEO personnel will make arrangements for interpreters and other forms of communication assistance to facilitate effective communication with persons with disabilities.

#### **G. Right to Representation During Internal Investigation**

All internal EEO investigations will be conducted consistent with all applicable collective bargaining agreements and/or rules. In instances where Group 12 (unionized) employees are named as Respondents and/or where disciplinary action may reasonably result from the interview and/or pursuant to their rights under applicable collective bargaining agreements, the unionized employee will have the right to union representation during an EEO investigation at their own election and discretion.

#### **H. Other Places Where Complaints May Be Filed**

All complainants shall be advised of their right to pursue an external complaint with an outside Civil Rights enforcement agency (see below) and/or to pursue a complaint through the judicial system. This right is not forfeited by using the System's internal procedure.

The following federal, state, or local agencies enforce laws against discrimination:

- **United States Equal Employment Opportunity Commission (the "EEOC"):** <http://www.eeoc.gov/>
- **New York State Division of Human Rights (the "SDHR"):** <http://www.dhr.ny.gov/>
- **New York City Commission on Human Rights (the "CCHR"):** <http://www.nyc.gov/html/cchr/html/home/home.shtml>
- **United States Department of Justice:** <http://www.justice.gov/>

When an employee or job applicant exercises their right to file a complaint with a federal, state, or local civil rights enforcement agency (known as an "external complaint") based on or related to the same facts and circumstances of an internal complaint, the Office of EEO will cooperate with the enforcement agency with respect to the ultimate resolution of the complaint. Complaints filed with the EEOC must be filed within 300 days of the act of discrimination. Complaints filed with the SDHR or the CCHR must be filed within one year of the act of discrimination (note: individuals have up to 3 years to file a sexual harassment claim with the CCHR). In such cases, the EEO Office will respond to the internal complaint through the external complaint process. Please note that if an employee or job applicant files

an external complaint prior to the completion of the investigation of an internal complaint based on the same facts and circumstances, they will not receive a written decision pursuant to the informal complaint procedure; rather, the System's response will be to the external complaint. In addition, there may be certain instances, based on the unique circumstances of the case, where an internal complaint will not be taken and instead the Complainant will be notified of their right to file a complaint externally should they wish to proceed with a complaint.

Please note that for federal claims, for instance under Title VII, an employee must first file with the EEOC within 300 days of the act of discrimination. Filing a charge of discrimination with the EEOC is a mandatory requirement before filing a lawsuit in federal court. A charging party must receive a "notice of right to sue" from the EEOC before they can file in federal court. For claims of discrimination brought under the New York State Human Rights and/or the New York City Human Rights Law, an employee or applicant for employment may elect to initiate a lawsuit in the New York State Supreme Court without first filing with the New York State Division of Human Rights and/or the New York City Commission on Human Rights. An employee has three years from the act of discrimination complained of to file such a lawsuit. Employees filing charges or lawsuits in New York City or New York State should be aware that you cannot file simultaneously in two venues, for example, with the New York City Commission on Human Rights and the New York State Supreme Court. As there are legal implications as to where a complainant files it may be a good idea to consult with an attorney before making a decision. The Office of EEO is also available to explain your options.

## **1. FILING A COMPLAINT WITH AN EXTERNAL CIVIL RIGHTS ENFORCEMENT AGENCY**

Any employee or applicant for employment who believes that they have experienced unlawful discrimination has a right to file a formal complaint with the federal, state or local agencies listed below. A person does not give up this right when they file a complaint with the NYC Health + Hospitals Office of Equal Employment Opportunity (EEO).

The following federal, state and local agencies enforce laws against discrimination:

### **NEW YORK CITY COMMISSION ON HUMAN RIGHTS**

22 Reade Street  
New York, NY 10007  
(212) 416-0197  
(212) 306-7686 (TTY)  
Web site: [www.nyc.gov/html/cchr/home/html](http://www.nyc.gov/html/cchr/home/html)

### **NEW YORK STATE DIVISION OF HUMAN RIGHTS**

One Fordham Plaza, 4th Floor  
Bronx, NY 10458  
(718) 741-8400

or

163 West 125th Street, 4th Floor  
New York, NY 100270  
(212) 961-8650  
(212) 961-8999 (TTY)

or

20 Exchange Place, 2nd Floor  
New York, NY 10005  
(212) 480-2522

or

55 Hanson Place, 3rd Floor  
Brooklyn, NY 11217  
(718) 722-2385  
Web site: [www.nysdhr.com](http://www.nysdhr.com)

**UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)**

New York District Office  
33 Whitehall Street, 5th Floor  
New York, NY 10004  
(800) 669-4000 (800) 669-6820(TTY)  
Web site: [www.eeoc.gov](http://www.eeoc.gov)

In addition to filing with the aforementioned agencies, a person with a complaint alleging discrimination based on disability may file with:

**UNITED STATES DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION**

Disability Rights Section  
New York Avenue Building  
950 Pennsylvania Avenue N.W.  
Washington, D.C. 20530  
(202) 514-3847 (202) 514-0716 (TTY)  
Web site: [www.usdoj.gov/crt/drs/drshome/htm](http://www.usdoj.gov/crt/drs/drshome/htm)

A person with a complaint alleging discrimination based on citizenship or immigration status may file with:

## **UNITED STATES DEPARTMENT OF JUSTICE CIVIL RIGHTS DIVISION**

Office of Special Counsel for Immigration-Related Unfair Employment Practices  
New York Avenue Building  
950 Pennsylvania Avenue N.W.  
Washington, D.C. 20530  
Voice: (202) 616-55941-800-255-7688  
Web site: [www.usdoj.gov/crt/osc](http://www.usdoj.gov/crt/osc)

A person who has been discriminated against by a recipient of financial assistance from the U.S. Department of Labor may file a complaint, either with the recipient or with the Civil Rights Center (CRC). Those who wish to file complaints with CRC should mail their complaints to:

## **UNITED STATES DEPARTMENT OF LABOR**

Director, Civil Rights Center  
Frances Perkins Building, Room N-4123  
200 Constitution Avenue N.W.  
Washington, D.C. 20210  
(866) 4-USA-DOL (866) 487-2365 (TTY) Web site: [www.dol.gov/dol/oasam/crhome.htm](http://www.dol.gov/dol/oasam/crhome.htm)

**Please Note:** There are statutory deadlines for filing complaints with each of these agencies. The deadline in some instances is as short as 300 days. If you wish to file a complaint with an external administrative agency, you should contact the external agencies promptly.

### **I. Withdrawing Complaints**

A complaint of discrimination may be withdrawn at any time by the person who filed the complaint. Once a withdrawal is submitted, the assigned EEO personnel will end the investigation. In some instances, the assigned EEO personnel may continue the investigation if deemed appropriate. Investigations of complaints alleging sexual harassment will continue notwithstanding the withdrawal of a complaint.