

KIDS CARE PEDIATRIC ASSOC. PC SEXUAL HARASSMENT POLICY

Introduction

Kids Care Pediatric Associates, PC is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. Sexual harassment is unlawful and subjects Kids Care Pediatric Associates, PC to liability. Kids Care Pediatric Associates, PC prohibits any form of sexual harassment and all employees are required to work in a manner that prevents sexual harassment in the workplace. This policy is one component of our commitment to a harassment-free and discrimination-free work environment.

You have the right to a workplace free from sexual harassment and can enforce this right by filing a complaint internally with the Kids Care Pediatric Associates, PC, with an administrative agency, or in a federal, state, or local court (if applicable).

Policy

- **Application.** This policy applies to all Kids Care Pediatric Associates, PC, applicants for employment, interns (paid or unpaid), and “non-employees,” regardless of immigration status. A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services pursuant to a contract with the Kids Care Pediatric Associates, PC. Protected non-employees include persons commonly referred to as independent contractors, “gig” workers, and temporary workers. Also included are persons providing equipment repair, cleaning services, or any other services pursuant to a contract with the employer.
- **Sexual Harassment Prohibited.** Sexual harassment is prohibited. Sexual harassment is a form of misconduct and will not be tolerated. All employees or other individuals covered under this policy who engage in sexual harassment will be subject to disciplinary action up to and including termination.
- **Retaliation Prohibited.** Kids Care Pediatric Associates, PC will not take an adverse employment action against any person covered by this policy who in good faith reports an incident of sexual harassment, provides information about an incident of sexual harassment, or otherwise assists in an investigation of a sexual harassment complaint. Kids Care Pediatric Associates, PC will not tolerate retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Anyone who retaliates against another individual involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, interns, or non-employees in the workplace who believe they have been subjected to such retaliation should inform their supervising Manager. All employees, paid or unpaid interns, or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below.
- **Liability for Sexual Harassment.** Sexual harassment is offensive, is a violation of Kids Care Pediatric Associates, PC policy, is unlawful, and subjects Kids Care Pediatric Associates, PC to liability to victims of sexual harassment. Sexual harassers may also be individually subject to liability. Any individual, including management, who engages in sexual harassment or who allows such behavior to continue, will be penalized for such misconduct.
- **Investigation of Sexual Harassment Claims.** Kids Care Pediatric Associates, PC will conduct a timely investigation when management receives a complaint about possible sexual harassment or otherwise knows of possible sexual harassment occurring. Kids Care Pediatric Associates, PC will keep the investigation confidential to the extent possible. Kids Care Pediatric Associates, PC will take corrective action when sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any investigation of sexual harassment.
- **Reporting Sexual Harassment.** All employees and any other individuals covered by this policy are encouraged to report any behavior or conduct that violates Kids Care Pediatric Associates, PC sexual harassment policy. A complaint form is provided below.
- **Reporting for Managers and Supervisors.** Managers and supervisors are required to report any sexual harassment complaint that they receive and any sexual harassment that they observe to their Superior.

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Definition of Sexual Harassment

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender.

Sexual harassment means unwelcome conduct that is either of a sexual nature or that is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment consists of words, signs, jokes, pranks, intimidation, or physical violence that are of a sexual nature. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone that are offensive or objectionable to the recipient, that cause the recipient discomfort or humiliation, or that interfere with the recipient's job performance.

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer-sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises or not during work hours.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment, or any other terms, conditions, or privileges of employment. This is called "quid pro quo" harassment.

Sexual harassment can occur between any individuals, regardless of their sex or gender.

Although it is not possible to identify every act that constitutes sexual harassment, the following are some examples:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, grabbing, brushing against another employee's body or poking another employees' body; or
 - Rape, sexual battery, molestation, or attempts to commit these assaults.
- Unwanted sexual advances, requests, or propositions, such as:
 - Requests for dates after being informed that interest is unwelcome;
 - Offers of employment benefits such as promotions, favorable evaluations, favorable duties, or shifts in exchange for sexual favors;
 - 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; or
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality, sexual experience, sexual behavior, or physical appearance, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should look or act.

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- Sexual or discriminatory displays or publications anywhere in the workplace, such as displaying emails, pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic (this includes sexual displays on workplace computers or cell phones and sharing these displays while in the workplace).
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, and the status of being transgender, such as:
 - Interfering with, destroying, or damaging a person's workstation, tools, or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work; or
 - Bullying, yelling, or name-calling.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (for example, threats of physical violence outside of work hours).

Kids Care Pediatric Associates, PC prohibits retaliation against an employee who engages in "protected activity," which occurs when an employee has:

- Filed a formal complaint of sexual harassment either internally with Kids Care Pediatric Associates, PC or externally with an administrative agency or a court of law;
- Testified or assisted in an administrative or court proceeding involving sexual harassment;
- Opposed sexual harassment by making a verbal or informal complaint to management or by informing a supervisor or manager of harassment;
- Complained that another employee has been sexually harassed; or
- Encouraged a fellow employee to report harassment.

Kids Care Pediatric Associates, PC anti-retaliation provision is not intended to protect persons making intentionally false charges of sexual harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. Kids Care Pediatric Associates, PC cannot prevent or remedy sexual harassment unless we know about it. Reports of sexual harassment may be made verbally or in writing. If you believe you have been subjected to sexual harassment, or if you witness or become aware of potential instances of sexual harassment, complete a complaint form (at the end of this policy) and submit it to your {{MANAGER-SUPERVISOR}}. If you are reporting sexual harassment on behalf of other employees, use the complaint form in this policy and note you are reporting on another's behalf.

Supervisory Responsibilities

Supervisors and managers who receive a sexual harassment complaint or who observe sexual harassment are required to report that complaint or observation to the office/supervising manager. Supervisors and managers who knowingly allow sexual harassment to occur and fail to report the sexual harassment will be subject to disciplinary action up to and including termination.

Supervisors and managers will also be subject to discipline for engaging in retaliation against anyone who reports sexual harassment.

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Investigation of Sexual Harassment Complaints

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible.

An investigation of any complaint, information, or knowledge of suspected sexual harassment will be prompt and thorough, will commence immediately, and will be completed as quickly as possible. All persons involved, including complainants, witnesses, and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any individual may be required to cooperate as needed in an investigation of suspected sexual harassment. Kids Care Pediatric Associates, PC will not tolerate retaliation against employees who file complaints, support another's complaint, or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations will generally include the following steps:

- Upon receipt of complaint, the Office Manager will conduct an immediate review of the allegations and take any interim actions (such as instructing the respondent to refrain from communications with the complainant), as appropriate. If the complaint is verbal, you will be encouraged to complete the Complaint Form in writing. If you refuse, the supervising/office manager may prepare a Complaint Form based on the verbal reporting.
- If documents, emails, or phone records are relevant to the investigation, the supervising/office manager will take steps to obtain and preserve them.
- The supervising/office manager will request and review all relevant documents, including all electronic communications.
- The supervising/office manager will interview all parties involved, including any relevant witnesses.
- The supervising/office manager will create a written documentation of the investigation (such as a letter, memo, or email) containing the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- The supervising/office manager will keep the written documentation and associated documents in a secure and confidential location.
- The supervising/office manager will promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- The supervising/office manager will inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections and External Remedies

Sexual harassment is not only prohibited by Kids Care Pediatric Associates, PC but also by federal, state, and local law. In addition to our internal process, employees may choose to pursue legal remedies with the administrative agencies listed next.

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Equal Employment Opportunity Commission (EEOC)

The EEOC enforces federal antidiscrimination laws. Complaints can be filed with the EEOC within 300 days of the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred and will issue a “right to sue” letter permitting you to file a complaint in federal court. Federal courts may award you remedies if discrimination is found to have occurred, including back pay, front pay, and compensatory and punitive damages. The EEOC does not award relief but may take other action including pursuing cases in federal court on behalf of complaining parties.

If you believe you have been discriminated against, file a “charge of discrimination” with the EEOC. The EEOC has an office at 33 Whitehall Street, 5th Floor, New York, NY 10004. You can also contact the EEOC by phone (1-800-669-4000) or email (info@eeoc.gov). The EEOC’s website is www.eeoc.gov.

New York State Division of Human Rights (NYSDHR)

The New York State Human Rights Law (NYSHRL) prohibits sexual harassment against employees, interns (paid or unpaid), and “non-employees,” a category that includes contractors, subcontractors, vendors, consultants, and any other person who provides services under a contract. You can file a sexual harassment complaint under the NYSHRL with the NYSDHR or in New York State court.

Complaints with the NYSDHR may be filed within one year of the sexual harassment. If you did not file at the NYSDHR, you can sue directly in state court under the NYSHRL within three years of the alleged harassment.

You may not file with the NYSDHR if you have already filed a NYSHRL complaint in state court. If you filed an administrative complaint with the NYSDHR, the NYSDHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Complaining internally to Kids Care Pediatric Associates, PC does not extend your time to file with the NYSDHR or in state court. The one year or three years is counted from the date of the most recent sexual harassment incident.

You do not need an attorney to file a complaint with the NYSDHR and there is no cost to file a complaint.

The NYSDHR will investigate your complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are sent to a public hearing before an administrative law judge. If discrimination is found after a hearing, the NYSDHR has the power to award relief. Under the NYSHRL, courts may award back pay, front pay, compensatory damages, a civil monetary penalty, and attorney’s fees.

The NYSDHR’s main office is at One Fordham Plaza, Fourth Floor, Bronx, NY 10458. You can also contact the NYSDHR by phone (1-888-392-3644) or email (info@dhr.ny.gov). The NYSDHR’s website is dhr.ny.gov/complaint. The website has a complaint form that can be downloaded, filled out, notarized, and mailed to the NYSDHR. The website also contains contact information for the NYSDHR’s regional offices.

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New York City Commission on Human Rights (NYCCHR)

The New York City Human Rights Law (NYCHRL) prohibits sexual harassment against employees in New York City. You can file a complaint of sexual harassment under the NYCHRL with the New York City Commission on Human Rights (NYCCHR) or in New York State court. You must file your complaint with the NYCCHR or in state court within three years of the alleged harassment. Under the NYCHRL, courts may award back pay, front pay, compensatory and punitive damages, and attorney's fees, expert fees, and costs.

The NYCCHR's main office is at 40 Rector Street, 10th Floor, New York, NY 10006. Contact the NYCCHR by phone (718-722-3131), or by website: www.nyc.gov/html/cchr/html/home/home.shtml.

Other Localities

Other localities may have their own laws protecting individuals from sexual harassment. Contact the county, city, or town in which you live to find out if such a law exists. If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

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Complaint Form for Reporting Sexual Harassment

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for employees to report alleged incidents of sexual harassment.

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to (designated person or office; contact information for designee or office; how the form can be submitted). You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, your employer should complete this form, provide you with a copy, and follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

Complainant Information

Name:

Work Address:

Work Phone:

Job Title:

Email:

Select Preferred Communication Method: (Email, Phone, In person)

Supervisor Information

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

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Complaint Information

1. Your complaint of sexual harassment is made against:

Name:

Title:

Work Address:

Work Phone:

Relationship to you: (supervisor; subordinate; co-worker; other)

2. Please describe the conduct or incident(s) that is the basis of this complaint and your reasons for concluding that the conduct is sexual harassment. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual harassment occurred:

Is the sexual harassment continuing? (Yes/No)

4. Please list the name and contact information of any witnesses or individuals that may have information related to your complaint:

The last question is optional, but may help facilitate the investigation.

5. Have you previously complained or provided information (verbal or written) about sexual harassment at Kids Care Pediatric Associates, PC? If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

Signature:

Date: