

NON-RETALIATION POLICY

PURPOSE

The purpose of this policy is to reinforce The University of Texas MD Anderson Cancer Center's (MD Anderson's) commitment to Doing the Right Thing by taking all necessary steps to prevent and protect workforce members from retaliation for good faith actions in reporting suspected wrongdoing, participating in an institutional investigation pertaining to alleged violations of laws, rules, policies, or procedures applicable to MD Anderson, or assisting appropriate authorities in investigating possible wrongdoing.

POLICY STATEMENT

It is the policy of MD Anderson to foster an environment of open communication so that workforce members understand their obligations to report compliance concerns and understand that they are protected when they do so.

SCOPE

This policy applies to all workforce members regardless of status, including Trainee & Alumni Affairs educational appointees.

DEFINITIONS

Adverse Actions: An Adverse Action is an action taken against a workforce member who makes a good faith report or who participates in an institutional investigation. Examples of Adverse Actions include, but are not limited to:

- Employment actions such as termination, demotion, suspension, refusal to hire, and denial of training and/or promotion;
- Actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance;
- Discrimination and/or harassment;
- Bullying by intimidation, humiliation, or social isolation, which can occur directly or indirectly (e.g., via e-mail);
- Creating a hostile and/or intimidating or offensive working environment; and

- Any other actions that are likely to deter a reasonable workforce member from reporting illegal conditions, violations of law, rules, policies, procedures and/or cooperating in/with an institutional investigation.

Adverse Action(s) do not include disciplinary action(s) taken against a workforce member as a result of the workforce member's own violation(s) of laws, rules, policies, or procedures or negative comments in an otherwise positive or neutral evaluation or negative comments that are justified by a workforce member's poor work performance or history.

Good Faith: Having a belief in the truth of one's allegation or testimony that a reasonable workforce member in the same position could have had, based on the information known to the workforce member at the time.

Retaliation/Retaliate: Any Adverse Action taken against a workforce member because the workforce member has, in Good Faith, reported wrongdoing or has, in Good Faith, cooperated in/with an institutional investigation.

Workforce Members: See [HIPAA Definitions Plan](#).

Wrongdoing: Examples of Wrongdoing include, but are not limited to:

- Illegal or fraudulent activity;
- Financial misstatements, or accounting or auditing irregularities;
- Conflicts of interests, or dishonest or unethical conduct;
- Violations of the institutions code of conduct; and
- Violations of other laws, rules, regulations, and/or policies.

PROCEDURE

1.0 Reporting and Investigating Allegations of Wrongdoing

- 1.1 All Workforce Members have an obligation to properly report, or cause to be properly reported, Wrongdoing and to assist in any institutional investigation.
- 1.2 Workforce Members are expected to be truthful and cooperative in institutional investigations of allegations of Wrongdoing.
- 1.3 A Workforce Member who is determined to have knowingly made false accusations or given false information during an institutional investigation may be subject to disciplinary action, up to and including termination, in accordance with MD Anderson's [Hospital Compliance Plan](#) and the [Disciplinary Action Policy \(UTMDACC Institutional Policy # ADM0256\)](#).

2.0 Non-Retaliation

- 2.1 MD Anderson will not Retaliate in any way against a Workforce Member who in Good Faith reports suspected Wrongdoing, participates in/with an institutional investigation pertaining to alleged Wrongdoing, or assists appropriate authorities in investigating possible Wrongdoing.

- 2.2 In addition, all Workforce Members have the right to be protected against Retaliation for doing lawful acts under the Health Insurance Portability and Accountability Act, the federal False Claims Act, the Texas Medicaid Fraud Prevention law, or any other applicable law. Both the federal False Claims Act and the Texas Medicaid Fraud Prevention law provide remedies for Workforce Members who are Retaliated against for reporting.

3.0 Investigation of Retaliation Claims

- 3.1 If a Workforce Member believes that he/she has been subjected to any action that violates the non-retaliation provisions of this policy, he/she may file a complaint with the division of Human Resources, Equal Employment Opportunity (EEO) team at 713-794-4EEO (4336), for investigation. Delays in reporting claims of Retaliation may impact the institution's ability to investigate such claims (e.g., EEO-related claims of Retaliation must be reported within 10 months of the most recent incident). For any claims of Retaliation that are based upon a Workforce Member's participation in a compliance investigation being conducted by the Institutional Compliance Office, Human Resources shall conduct its investigation under the supervision of the Vice President and Chief Compliance Officer.
- 3.2 If after the investigation of a Retaliation claim a determination is made that the Workforce Member has experienced Retaliation, MD Anderson will take appropriate corrective action at the direction of the Vice President and Chief Human Resources Officer and the Vice President and Chief Compliance Officer.

REFERENCES

[Disciplinary Action Policy \(UTMDACC Institutional Policy # ADM0256\).](#)

[Equal Employment Opportunity Policy \(UTMDACC Institutional Policy # ADM0284\).](#)

Federal False Claims Act, 31 U.S.C. § 3730(h).

[Fraud, Waste, and Abuse Policy \(UTMDACC Institutional Policy # ADM0157\).](#)

[HIPAA Definitions Plan.](#)

HIPAA Privacy Standards, 45 C.F.R. § 164.530(g).

[Hospital Compliance Plan.](#)

[MD Anderson Institutional Compliance Plans.](#)

MD Anderson's Institutional Code of Conduct is available in several languages:

- [Arabic.](#)
- [Chinese.](#)
- [English.](#)
- [Portuguese.](#)
- [Spanish.](#)
- [Turkish.](#)
- [Vietnamese.](#)

Tex. Gov't. Code § 554.002.

Approved With Revisions Date: 10/19/2010

Approved Without Revisions Date:

Implementation Date: 10/19/2010

Governors

Varghese,Shibu -VP, Human Resources

Stewards

Moylan,Deana K -Exec Dir,HR Strategic Partners

Rochelle,Jacqueline B -Manager, EEO & Employee Relations

Content Experts

Edmondson,Vladimir I -Assoc Dir, Inst Compliance

Rochelle,Jacqueline B -Manager, EEO & Employee Relations