

NON-RETALIATION POLICY

PURPOSE

The purpose of this policy is to reinforce The University of Texas MD Anderson Cancer Center's (MD Anderson) commitment to Doing the Right Thing by taking all necessary steps to prevent and protect faculty, trainees/students, and other members of MD Anderson's workforce 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 faculty, trainees/students, and other members of MD Anderson's workforce understand their obligations to report compliance concerns and understand that they are protected when they do so.

SCOPE

This policy applies to all faculty, trainees/students, and other members of MD Anderson's workforce regardless of status, including Academic and Visa Administration – Trainee (AVA-Trainee) educational appointees.

Compliance with this policy is the responsibility of all faculty, trainees/students, and other members of MD Anderson's workforce.

TARGET AUDIENCE

The target audience for this policy includes, but is not limited to, all faculty, trainees/students, and other members of MD Anderson's workforce.

DEFINITIONS

Adverse Actions: An Adverse Action is an action taken against a faculty member, trainee/student, or other member of MD Anderson's workforce 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 likely to deter a reasonable faculty member, trainee/student, or other member of MD Anderson's workforce from reporting illegal conditions, violations of law, rules, policies, or procedures, and/or cooperating in/with an institutional investigation.

Adverse Action(s) do not include disciplinary action(s) taken against a faculty member, trainee/student, or other member of MD Anderson's workforce as a result of his/her 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 his/her poor work performance or history.

Good Faith: Having a belief in the truth of one's allegation or testimony that a reasonable faculty member, trainee/student, or other member of MD Anderson's workforce in the same position could have had, based on the information known to him/her at the time.

Retaliation/Retaliate: Any Adverse Action taken against a faculty member, trainee/student, or other member of MD Anderson's workforce because he/she has, in Good Faith, reported Wrongdoing or has, in Good Faith, cooperated in/with an institutional investigation.

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 faculty, trainees/students, and other members of MD Anderson's workforce have an obligation to properly report, or cause to be properly reported, Wrongdoing and to assist in any institutional investigation.
- 1.2 Faculty, trainees/students, and other members of MD Anderson's workforce are expected to be truthful and cooperative in institutional investigations of allegations of Wrongdoing.
- 1.3 A faculty member, trainee/student, or other member of MD Anderson's workforce 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 faculty member, trainee/student, or other member of MD Anderson's workforce 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 faculty, trainees/students, and other members of MD Anderson's workforce 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 faculty, trainees/students, and other members of MD Anderson's workforce who are Retaliated against for reporting.

3.0 Investigation of Retaliation Claims

- 3.1 If a faculty member, trainee/student, or other member of MD Anderson's workforce 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 5-myHR (713-745-6947), 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, Chief Compliance & Ethics Officer.
- 3.2 If after the investigation of a Retaliation claim a determination is made that the faculty member, trainee/student, or other member of MD Anderson's workforce has experienced Retaliation, MD Anderson will take appropriate corrective action at the direction of the Vice President, Human Resources and the Vice President, Chief Compliance & Ethics Officer.

ATTACHMENTS / LINKS

[HIPAA Definitions Plan \(Attachment # ATT0699\).](#)

[Hospital Compliance Plan.](#)

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

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

[MD Anderson Institutional Compliance Plans.](#)

RELATED POLICIES

[Communication of Adverse Events and Unanticipated Outcomes to Patients Policy \(UTMDACC Institutional Policy # CLN0609\).](#)

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

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

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

[Patient Safety Event Report Policy \(UTMDACC Institutional Policy # ADM0349\).](#)

JOINT COMMISSION STANDARDS / NATIONAL PATIENT SAFETY GOALS

None.

OTHER RELATED ACCREDITATION / REGULATORY STANDARDS

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

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

Tex. Gov't. Code § 554.002.

REFERENCES

None.

POLICY APPROVAL

Approved With Revisions Date: 02/04/2013

Approved Without Revisions Date:

Implementation Date: 02/04/2013

Version: 36.0

RESPONSIBLE DEPARTMENT(S)

Human Resources