

TITLE: GRIEVANCE PROCEDURE

PURPOSE: To set guidelines for addressing employee grievances.

POLICY STATEMENT:

Harris Health is committed to participating in a grievance process that will facilitate a prompt grievance remedy. Each employee is encouraged to communicate his/her concerns directly with their supervisor.

POLICY ELABORATION:

I. DEFINITIONS:

- A. **ADMINISTRATOR/DESIGNEE:** The individual hearing and rendering a decision during Step I and Step II of the grievance process.
- B. **ELIGIBLE EMPLOYEE:** All employees except Administrators, Assistant Administrators, Associate Administrators, Directors, employees who are terminated by the President/Chief Executive Officer (CEO), part-time employees without benefits, temporary status employees, employees in their initial ninety (90) day introductory period, supplemental employees, and registry employees are eligible to participate in the grievance process.
- C. **GRIEVANCE:** A job-related matter that adversely affects the person's employment (i.e., administration of disciplinary action).
- D. **NON-REVIEWABLE GRIEVANCE:** Matters which include dissatisfaction with any of the following:
 - 1. Harris Health's Compensation and Benefit Plans;
 - 2. Dress policy;
 - 3. Scheduling of work hours;
 - 4. Lines of authority and responsibility;
 - 5. Assignment to another facility or work location;
 - 6. Reduction in work force or reorganization;
 - 7. Changes in the essential functions of the position;
 - 8. Counseling or coaching with no disciplinary action;
 - 9. The content of a Harris Health policy or departmental procedure;

10. Resignation;
11. Probation;
12. Performance evaluations;
13. Demotion not caused by disciplinary action (e.g., reclassification of position); and
14. An employee who is charged with a violation of a criminal drug statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance or any other criminal offense.

E. **FACILITATOR:** Harris Health Human Resource representative(s) who ensures compliance with this policy and assists the Administrator/Designee and/or Review Panel during Step I and Step II of the grievance process.

F. **PROCESS:** A method for resolving a reviewable grievance.

G. **REVIEWABLE GRIEVANCE:** A grievance regarding the administration of policy or procedures of Harris Health which is not identified as a Non-Reviewable Grievance. Reviewable Grievances are limited to matters resulting in the following disciplinary actions: demotion, suspension, or termination.

H. **REVIEW PANEL:** The individuals hearing both positions and providing a recommendation to the Administrator/Designee during Step II of the grievance process.

II. GENERAL PROCEDURES/REGULATIONS:

A. Retaliation Prohibited:

Retaliation against or intimidation of employees who file or participate in a grievance is prohibited.

B. Request for Grievance Hearing:

Within seven (7) calendar days after the occurrence of the disciplinary action/incident at issue, an Eligible Employee may submit a grievance request to Harris Health Human Resources. A grievance request must be submitted on the Harris Health Grievance Form (Request Form), available from Harris Health Human Resources. The Request Form must be completely filled out, signed, and dated by the Eligible Employee to be considered complete and subject to

review by Harris Health. The Employee must identify any requested remedies. Failure to fully complete, sign, and date the Request Form may result in the denial of the request to schedule a grievance hearing.

C. Acceptance for Review:

Within seven (7) calendar days of receipt of the Request Form, the grievance will be reviewed by Harris Health Human Resources to determine whether the employee is an Eligible Employee and whether the grievance is a Reviewable Grievance. Request Forms that are not completed, not timely filed, filed by or on behalf of an individual that is not an Eligible Employee, or does not identify a Reviewable Grievance will not be accepted for review and the grievance process will terminate.

D. Scheduling:

1. The Step I hearing will be scheduled by Harris Health Human Resources after receiving the Request Form from the employee. The Step II hearing will be scheduled after receiving written notification from the employee within seven (7) calendar days of the written decision from the Administrator/Designee following Step I. Employees with pending grievances will either be assigned to the day shift or excused from their assigned shift as necessary to participate in the grievance.
2. An employee may submit a request to reschedule a hearing which shall be determined at the sole discretion of the Vice President/Designee of Harris Health Human Resources. This request to reschedule may be submitted once, at each step, upon providing Harris Health Human Resources notice, seventy-two (72) hours in advance of the scheduled hearing.

E. Failure to Notify:

1. An employee failing to notify Harris Health Human Resources seventy-two (72) hours in advance of his/her inability to be present at the scheduled hearing will forfeit all rights to grieve and management's last decision will stand. The grievance process will terminate.
2. Harris Health Human Resources may waive this requirement based on good cause at Harris Health's sole discretion.

F. Availability of Time/Fact Witnesses:

1. An employee will be allowed a reasonable amount of time, without loss of pay or benefit accrual, to attend the scheduled grievance.
2. If an employee intends on having a fact witness attend the grievance hearing, the employee must notify the Vice President/Designee of Harris Health Human Resources in writing seventy-two (72) hours prior to the scheduled grievance hearing. The notice should include the name of the fact witness.
3. An employee asked to be a fact witness or to present evidence during the process will be considered on work time while attending the grievance hearing.
4. No character witnesses or character testimony is permitted.

G. Representation:

1. If an employee intends to be represented by counsel or assisted by another person, the employee must notify the Vice President/Designee of Harris Health Human Resources in writing seventy-two (72) hours prior to the scheduled grievance hearing. The notice should include the name of the representative.
2. The Harris County Attorney's Office may assist Harris Health at all steps of the grievance process and attend all hearings if the employee is represented by legal counsel.

H. Documents:

1. At any step of the grievance process, the parties are permitted to present documents relevant to the action being grieved.
2. Any and all documents presented at any step of the grievance process may not disclose protected health information or any other confidential information. As a result, all documents presented must be redacted to remove any and all protected health information or confidential information.

I. Hearings:

At any step of the grievance process, the parties are limited to presenting their position orally or in writing and are limited to submission of documents relevant to the action being grieved.

III. GRIEVANCE PROCESS:

A. Step I Administrator's Review:

1. Matters which include dissatisfaction with any of the following are final at Step I and not subject to appeal to the Grievance Review Panel at Step II:
 - a. Health Information Portability and Accountability Act (HIPAA) violations;
 - b. Any corrective action, up to and including termination, resulting from an investigation of Harris Health Corporate Compliance or Risk Management;
 - c. Any corrective action, up to and including termination for violations of Harris Health's Non-Discrimination (Policy No. 6.19) and Sexual Harassment (Policy No. 6.36) Policies;
 - d. Any corrective action, up to and including termination for violations of Harris Health's Abuse, Neglect, and Exploitation of Patients Occurring at Harris Health System Facilities (Policy No. 3001) Policy; and
 - e. Termination after exhaustion of remedies under FMLA or ADA.
2. The Administrator/Designee's grievance decision resulting in demotion or suspension is final at Step I. The Administrator/Designee's grievance decision resulting in termination may be appealed to the Grievance Review Panel at Step II.
3. Once Harris Health Human Resources determines that the complaint is grievable, Harris Health Human Resources will schedule a hearing with the designated Administrator/Designee. The Administrator/Designee may be part of the employee's direct line of supervision, but shall not have played any role in the evaluation or determination of the action that is the subject of the grievance.

4. The Administrator/Designee will meet informally with the employee, supervisor, employee's representative, others involved in the grievance process, and Harris Health Human Resources to discuss the grievance. The Administrator/Designee will conduct the hearing, and any and all comments and questions from the supervisor, employee, or employee's representative must be directed to the Administrator/Designee. The supervisor, employee, or employee's representative shall not be permitted to question each other during the hearing. Each side will have a maximum of thirty (30) minutes to present their position to the Administrator/Designee. The employee or employee's representative will present their position first.
5. If a party desires to present any applicable document to the Administrator/Designee, the party must present the document at the hearing and bring sufficient copies for the other side and the Administrator/Designee.
6. Based on the pertinent information presented, the Administrator/Designee will prepare a written decision to be forwarded to the employee, employee's representative, if any, Department Director and Harris Health Human Resources within seven (7) calendar days. The Facilitator shall not be entitled to vote on any decision.
7. The Facilitator may terminate the hearing if the parties and participants are not adhering to the rules of the grievance process.

B. Step II Review Panel:

1. Scheduling: If the employee desires to continue the appeal, written notification must be provided to Harris Health Human Resources within seven (7) calendar days of the written decision from the Administrator/Designee.
2. Composition:
 - a. The Review Panel for clinical practice issues (e.g., nursing, lab, radiology, or any clinical patient safety issues) resulting in termination or non-clinical practice issues resulting in termination shall include: one (1) Administrator/Designee, one (1) Manager/Supervisor, and three (3) employees.

- b. When reviewing a grievance that is associated with and based on clinical practice issues and is associated with possible disciplinary action associated with the clinical practice, the reviewing panel will consist of at least two (2) individuals with knowledge of the clinical practice in question.
 - c. The Review Panel will be selected by the Vice President/Designee of Human Resources. Review Panel members who played any role in the evaluation or determination of the action that is subject of the grievance will be excluded from the Review Panel. Review Panel members must recuse themselves if they believe they are unable to render an impartial decision.
 3. Conduct of Hearing:
 - a. The one (1) hour hearing will be limited to the issues stated in the Request Form.
 - b. The employee or employee's representative will present their position first. The employee must identify their requested remedy upon the conclusion of their presentation. The employee will have a maximum of thirty (30) minutes to present their position.
 - c. Upon completion of the employee's position, management will present their position. Management will have a maximum of thirty (30) minutes to present their position.
 - d. If a party desires to present any applicable document to the Review Panel, the party must bring sufficient copies to the hearing so that each member of the Review Panel, the Administrator/Designee, and the other side may have a copy.
 - e. Neither the employee nor the employee's representative nor management may cross examine each other, the parties, or witnesses. The Review Panel may question participants.
 - f. The Facilitator may terminate the hearing if the parties and participants are not adhering to the rules of the grievance process.
 - g. At the end of the hearing, the employee and management will be dismissed so that the Review Panel may deliberate and provide a recommendation to the Administrator/Designee. The Facilitator shall not be entitled to vote on any decision.

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- h. The Administrator/Designee's decision will be in writing and forwarded to both presenting parties within seven (7) calendar days.
- i. All determinations and decisions of the Review Panel, resulting from termination of employment are final.
- j. If an employee is reinstated, Harris Health's President/Chief Executive Officer may overturn a decision of the Review Panel, where there is a clear disregard of the facts and/or law, upon written notice to the employee, management, and the Vice President of Harris Health Human Resources.

4. Remedies:

- a. The Administrator/Designee and Review Panel's decision is limited to the question of whether the action affecting the employee is consistent with existing Harris Health policies, practices, rules, and regulations ONLY.
- b. The Review Panel is not authorized to alter or amend existing Harris Health policies, practices, rules, and regulations.
- c. The Review Panel is not authorized to grant a performance pay increase or a promotion.
- d. The Review Panel is not authorized to grant a remedy other than the one requested by the employee on the Request Form. The form in which the remedy will be granted shall be left up to the discretion of Harris Health.
- e. If the employee is reinstated, Harris Health may grant back pay, but it may not authorize an amount in excess of the actual amount of unpaid leave. An employee must be promptly reinstated to an available position for which the employee is qualified.
- f. The Review Panel's decision or proposed remedy shall not exceed reinstatement.

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REFERENCES/BIBLIOGRAPHY:

Texas Public Information Act

Harris Health System Policy and Procedure 6.19 Non-Discrimination

Harris Health System Policy and Procedure 6.36 Sexual Harassment

Harris Health System Policy and Procedure 6.11 Performance Appraisals

OFFICE OF PRIMARY RESPONSIBILITY:

Vice President of Human Resources

REVIEW/REVISION HISTORY:

Effective Date	Version # (If Applicable)	Review/ Revision Date (Indicate Reviewed or Revised)	Approved by:
01/27/05	1.0		Board of Managers (No. 05.1-62)
		Approved 02/07/2006	HCHD Policy Review Committee
		Approved 08/02/2006	HCHD Policy Review Committee
	2.0	Revised 04/18/2008	Vice President of Human Resources
		Approved 05/06/2008	HCHD Policy Review Committee
	3.0	Revised/Approved 05/11/2011	Operations Policy Committee
	4.0	Revised/Approved 07/10/2012	Operations Policy Committee
	5.0	Revised/Approved 03/14/2017	Structure of Organizational Standards Committee

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