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January 28, 2026

VIA EMAIL

Sarah Biglow, Investigator
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Marzella Hightower, Administrative Assistant
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The Commonwealth of Massachusetts
Commission Against Discrimination
One Ashburton Place
Boston, MA 02108

Re: Andrea Roxton v. Boston Children's Hospital and Genevieve Benoit
MCAD Docket No. 25BEM03257
EEOC/HUD No. 16C-2025-02712

Dear Investigator Biglow and Ms. Hightower:

Our firm represents the Respondents, Boston Children's Hospital (the "Hospital") and Genevieve Benoit ("Benoit") (together, "Respondents"), in the above-referenced matter. Please accept this letter as Respondents' Position Statement in response to the Charge of Discrimination ("Charge") filed by Andrea Roxton ("Complainant").¹

Complainant, a former Ambulatory Clinic Supervisor II in the Hospital's Department of Urology, alleges that Respondents discriminated against her on the basis of her age, race, color, national origin, and disability; failed to accommodate her disability; and retaliated against her.² These allegations are not supported by the facts.

In reality, Complainant's time in the Department of Urology was marked by persistent performance deficiencies, including her inability to function effectively as a supervisor, failure to

¹ This Position Statement is based upon Respondents' understanding and investigation of facts at this time. By submitting this position statement, Respondents in no way waive their right to present new, different, or additional facts or arguments based upon additional information or evidence.

² In her Charge, Complainant also appears to assert a claim of "Interference." Charge at 1. The Charge lacks sufficient information to allow Respondents to respond in detail to this claim, which Respondents deny. To the extent Complainant alleges that Respondents interfered with her rights under Chapter 151B, Respondents address that claim in this Position Statement at Section IV.

manage critical clinic processes, and frequent unwillingness to accept or apply feedback. Complainant's performance challenges persisted despite extensive support, training, and opportunities to improve. Respondents acted in good faith at all times, taking steps necessary to protect patient safety, ensure continuity of care, and maintain efficient clinic operations. Respondents' actions were driven solely by legitimate performance-based concerns. Ultimately, in November 2024, Complainant took a medical leave and later *voluntarily* resigned from the Hospital on March 17, 2022.

Accordingly, Complainant's claims are unfounded and should be dismissed in their entirety.

FACTUAL BACKGROUND

I. BOSTON CHILDREN'S HOSPITAL AND ANTI-DISCRIMINATION POLICIES

Boston Children's Hospital is one of the most prestigious pediatric hospitals in the United States, caring for children with a multitude of challenging health problems. Parents from around the world trust the Hospital to provide the best possible medical care for their children. At every level of the organization, the Hospital's foremost priority is the health, safety, and overall wellbeing of its patients.

The Hospital is committed to a diverse workforce that is free from discrimination or retaliation in any form. To that end, the Hospital maintains and informs its employees of its equal employment opportunity and anti-discrimination policies, which prohibit discrimination and harassment on the basis of any protected category, including age, race, national origin, color, and disability. *See Exhibit 1* (Diversity, Equal Employment Opportunity, and Affirmative Action Policy/Procedure; Policy Against Discrimination, Discriminatory Harassment and Retaliation Policy/Procedure). Employees who believe they have been subjected to any discriminatory or retaliatory treatment are encouraged to come forward so that their complaints can be investigated. Retaliation is also strictly prohibited.

II. COMPLAINANT'S EMPLOYMENT

Claimant began her employment with the Hospital in July 2001, working in different roles throughout the Hospital until around February 2022. On February 27, 2022, Complainant transferred into the Hospital's Department of Urology, which is ranked among the best in the nation in pediatric urology and provides expert care for the entire spectrum of urologic conditions. Complainant began working as an Ambulatory Clinic Supervisor I. In this supervisory role, Complainant was expected to provide leadership and support to front desk staff (known as front desk Patient Experience Representatives ("PERs")), ensure the efficient day-to-day functioning of the clinic, and resolve issues impacting clinic operations or patient experience.

In 2023, Complainant was promoted to Ambulatory Clinic Supervisor II. In this capacity, Complainant became responsible for supervising other PERs (including call center PERs and doctor-facing PERs) in addition to the front desk PERs. Patient Experience Representatives ("PERs") play a critical role in clinic operation, serving as a point of contact for patients and families and providing essential administrative and coordination support to physicians, nurses, and advanced practice clinicians. As their supervisor, Complainant was expected to have a thorough

understanding of the PER role and to ensure that PERs consistently provided accurate, timely, and patient-centered support while effectively facilitating the clinical team's workflow needs.

In a clinic environment, supervisors are expected to remain flexible, responsive, and consistently communicative, and to assist their staff whenever needed, particularly during busy periods or times of heightened demand, while maintaining a professional and supportive demeanor at all times.

III. COMPLAINANT'S PERFORMANCE DEFICIENCIES

Shortly after Complainant assumed the Ambulatory Clinic Supervisor II role – and before Ms. Benoit became her supervisor – significant concerns emerged regarding Complainant's technical proficiency and her lack of ownership over critical clinic processes. One of the most essential responsibilities Complainant was given involved overseeing the urology referral order work queue, which required continuous monitoring and timely action. The work queue contains incoming referrals for patients who need to be contacted and scheduled for appointments in the Department of Urology. Failure to manage this process appropriately creates delays in patient care and directly impacts access to necessary medical services.

Complainant was assigned responsibility for managing this work queue, including ensuring that referrals were processed and tasks were delegated or completed so that patients could be scheduled promptly. When Complainant reported that she lacked training on this and other processes, her then-supervisor, Phillip Main, and Julie Campbell, then-Director of Operations, provided hands-on instruction and supplied her with detailed written guidance outlining the necessary steps to complete the tasks. Despite these efforts, Complainant's progress on managing the work queue and assigning scheduling tasks stalled, and the backlog persisted.

In addition, Ms. Campbell worked with Complainant on developing and maintaining a coverage schedule, another key operational responsibility. Although Complainant created an initial schedule covering approximately two weeks, she did not continue updating or managing it unless specifically prompted. This lack of follow-through demonstrated difficulties in meeting the expectations of a supervisory role that required initiative, consistency, and independent ownership of core functions.

In February 2024, Complainant began reporting to Ms. Benoit, the Practice Administrator for the Department of Urology, when Complainant's previous supervisor, Mr. Main, transitioned into a different role. Ms. Benoit brought extensive management experience to the Hospital; in her previous role at a different hospital, she managed around 120 individuals comprising of approximately 90 direct reports and 30 indirect reports.

Ms. Benoit interacted with Complainant on a near-daily basis and had regular opportunities to observe Complainant's performance. Shortly after assuming supervisory responsibility for Complainant, Ms. Benoit noted that critical tasks were not being completed consistently, timely, or in some cases at all. Most significantly, Complainant continued to fail to manage or take appropriate ownership of the urology referral order work queue, a crucial supervisory responsibility directly tied to patient care and experience. Ms. Benoit also began receiving complaints from providers and other personnel that referral-related tasks were not being handled

appropriately. As a result, referred patients were not being contacted for months, creating serious issues for patient safety, care, and service.

Concerns also arose regarding Complainant's ability to perform and support the work of her staff. For example, Complainant frequently declined to assist with patient check-ins or appointment scheduling, continuing to claim insufficient training despite that she had actually received extensive training. This lack of functional knowledge and unwillingness to assist staff during periods of high demand hindered department operations and further contributed to risk in patient care delivery.

To support Complainant's development, Ms. Benoit held weekly one-on-one meetings with her to provide guidance, coaching, and ongoing feedback. While Complainant occasionally responded well, she was often unresponsive. For example, almost every time Complainant received constructive feedback, she would become disengaged and withdrawn, frequently denying responsibility for key aspects of her job, and even returning to her desk and refusing to communicate with colleagues for extended periods, demonstrating a lack of professionalism and composure.

Ms. Benoit also observed deficiencies in Complainant's supervisory skills. For example, due to Complainant's performance and communication issues, staff members increasingly bypassed Complainant and brought questions, concerns, or operational issues directly to Ms. Benoit.

Despite having received repeated verbal coaching and support on various occasions in 2023 and 2024, Complainant's performance issues persisted. As a result, on April 9, 2024, Ms. Benoit met with Complainant formally to address these concerns and issued a Written Employee Corrective Action Notice ("Written Counseling"). See **Exhibit 2** (April 9, 2024 Written Counseling). This Written Counseling documented the impact of Complainant's ongoing performance deficiencies on patient safety and department operations. As part of this Written Counseling, a training plan was established to provide Complainant with yet additional instruction on the call center functions and administrative duties to support Complainant in her role. Approximately one month after receiving the Written Counseling, Complainant applied for and began a medical leave from May 18, 2024 to September 3, 2024.

Upon Complainant's return, performance issues continued. Specifically, despite the emphasis on properly managing the referral work queue, minimal progress was made on outreach to schedule appointments with patients. For example, between October 1 and October 4, 2024, Complainant did not schedule any patients, and between October 25 and November 1, 2024, she had only scheduled one patient. The backlog in contacting patients needing appointments was unacceptable.

Because of Complainant's ongoing failures, Ms. Benoit was forced to assume – in addition to her own responsibilities – many of Complainant's responsibilities herself, both in assisting Complainant's direct reports and in managing tasks for which Complainant was responsible. For example, on one occasion in early November 2024, clinic staff could not locate Complainant for support during a busy period when many patients were waiting in the clinic lobby to be checked

in or assisted. Staff members instead requested help from Ms. Benoit, who immediately stepped in to provide support.

These continued concerns lead to a second Written Counseling, delivered on November 11, 2024, documenting Complainant's deficient performance in detail. *See Exhibit 3* (November 11, 2024 Written Counseling). During the meeting to review the Written Counseling, Complainant abruptly walked out and did not return. The following day, Complainant commenced another medical leave.³

On March 17, 2025, Complainant voluntarily resigned from the Hospital.

LEGAL ARGUMENT

I. COMPLAINANT CANNOT ESTABLISH A CLAIM OF DISCRIMINATION ON THE BASIS OF AGE, RACE, NATIONAL ORIGIN, COLOR, OR DISABILITY.

In order to establish a *prima facie* case of unlawful discrimination, Complainant must establish that (1) she was a member of a protected class; (2) she satisfactorily performed her job; (3) she experienced an adverse employment action; and (4) such adverse employment action occurred under circumstances giving rise to an inference of discrimination. *See Santiago v. Massachusetts Dep't of Corr.*, 22 MDLR 290, 292 (2000); *Moridi v. Mass. Bay Transp. Auth.*, 21 MDLR 39, 40 (1999); *Wetzel v. Gen. Elec.*, 19 MDLR 53 (1997); *Abramian v. President & Fellows of Harvard Coll.*, 432 Mass. 107, 116 (2000). Claimant fails to meet prongs two and four of the *prima facie* case.

A. Claimant Did Not Satisfactorily Perform Her Job.

First, Claimant cannot show that she was performing her job satisfactorily. As described above, Complainant's performance was lacking in many respects, including her technical abilities, her supervisory and management skills, and her overall professionalism. Despite receiving extensive coaching and support well before any Corrective Action Notices were issued, she repeatedly failed to take ownership of essential responsibilities.

A central example was her failure to manage the referral order work queue. Multiple individuals, including Ms. Campbell and Mr. Main, trained and retrained Complainant and provided detailed written instructions to support her success, yet Complainant remained both unwilling and unable to take responsibility for the process. Effective management of the work queue is a critical operational requirement in the Department of Urology, and the delays in processing referrals prevented patients from being scheduled for necessary appointments.

³ Pursuant to standard Hospital procedures, Complainant was placed on inactive leave status in mid-December 2024 after exhausting her allotted medical leave. Inactive status permits an employee to remain an unpaid employee with continued benefits for a six-month period. (The letter that was sent to Complainant contains a ministerial error stating that she may remain in inactive leave status for up to thirty days. However, the same letter also correctly explained that her status would be reevaluated in six months, on June 13, 2025.)

Complainant's continued failure to manage this process when reporting to Ms. Benoit and her persistent disclaiming of responsibility reflected substantial shortcomings inconsistent with the expectations of a supervisor.

Complainant also struggled as a people manager. Several of her direct reports did not feel comfortable approaching her, and at times bypassed her to seek guidance from Ms. Benoit. Further, Ms. Benoit took on a significant number of responsibilities that Complainant was not doing, including in one instance when the clinic's lobby and front desk area were extremely busy with patients waiting to be checked in. During that time, Complainant was not present, and Ms. Benoit stepped in to assist immediately. This lack of presence and leadership is incompatible with the responsibilities of a front-line supervisor in a high-volume clinical setting.

In addition, despite receiving multiple trainings on the technical aspects of her position, including EPIC Systems, scheduling workflows, and patient check-in procedures, Complainant continued to demonstrate deficiencies in performing these tasks. Her inability to execute basic operational functions meant she could not effectively support her team, further undermining her role as a first-line supervisor.

These issues were repeatedly raised with Complainant, initially through informal coaching and later through formal written counseling when her performance did not improve. Respondents provided Complainant with multiple opportunities to succeed and ensured she had the necessary tools, training, and support. Nevertheless, Complainant stagnated, negatively impacting the clinic and its patients. Compounding these concerns, Complainant frequently resisted or rejected constructive feedback, preventing Respondents from collaborating with her on her development and growth.

B. The Circumstances Do Not Give Rise To An Inference Of Discrimination.

Further, there is no evidence establishing any causal connection between Complainant's age, race, disability, or national origin and the performance counseling she received. Complainant does not, and cannot, allege that she was treated differently than any similarly situated employee outside her stated protected classes. She identifies no comparator who engaged in comparable conduct but was treated more favorably. Complainant also fails to point to a single discriminatory remark, comment, or action by Ms. Benoit or another individual at the Hospital that reflects bias or animus toward any of her stated protected characteristics. Accordingly, Complainant fails to establish a *prima facie* case of discrimination and her claims must fail.

C. Complainant Cannot Prove That The Hospital's Articulated Reasons For Her Performance Counseling Notices Were A Pretext For Discrimination.

Even assuming that Complainant could establish a *prima facie* case of age discrimination (which she cannot), her claim fails because she cannot establish that the reasons for her Corrective Action Notices were untrue and a pretext for discrimination. *See Lipchitz v. Raytheon Co.*, 434 Mass. 493, 501 (2001); *Abramian v. President & Fellows of Harvard Coll.*, 432 Mass. 107, 118 (2000).

Complainant cannot meet this burden. She cannot establish that Respondents did not genuinely believe in the performance-based reasons underlying the Corrective Action Notices, nor

can she show that any Ms. Benoit or another individual was motivated by discriminatory animus based on any protected category. The feedback and counseling she received were rooted in well-documented, objective performance concerns observed by multiple individuals across the department. These included her persistent failure to manage the referral work queue and the fact that she did not or could not support her staff in their work – fundamental aspects of her supervisory role. These undisputed performance deficiencies directly affected patient access, workflow efficiency, and the overall patient experience, and they wholly undermine any suggestion that Respondents acted with discriminatory intent.

II. COMPLAINANT CANNOT ESTABLISH A CLAIM OF RETALIATION.

Complainant’s claim that Respondents retaliated against her for engaging in protected activity also fails as a matter of law. To establish a *prima facie* case of retaliation, Complainant must show (1) she engaged in a statutorily protected activity, of which Respondents were aware; (2) she suffered an adverse employment action; and (3) there is some causal relationship between the two events. *See Mole v. Univ. of Mass.*, 442 Mass. 582, 591-92 (2004). Complainant fails to establish a *prima facie* case.

Complainant alleges she filed a charge at the Equal Employment Opportunity Commission (“EEOC”) on May 31, 2024. This charge was filed *after* she received her first Written Counseling on April 9, 2024. This timing alone forecloses any claim of retaliation with respect to this Written Counseling, as Respondents could not have retaliated against her for protected activity that had not yet occurred. Complainant does not allege that she engaged in any protected activity prior to May 31, 2024, because she did not.

With respect to the second Written Counseling, there were no changes in Complainant’s performance expectations before or after she filed her EEOC charge. The same core concerns (namely, her failure to manage the referral work queue, her lack of availability and support for staff, and her ongoing technical and supervisory deficiencies) had already been documented in detail in the April 9, 2024 Written Counseling, well before she initiated any protected activity. These same issues are reflected, consistently and contemporaneously, in the second Written Counseling. This clear continuity in Respondents’ expectations and documented concerns demonstrates that the subsequent Written Counseling was a continuation of an established corrective process, not a retaliatory response to her EEOC filing. Moreover, Complainant has not shown that Ms. Benoit was aware of Complainant’s EEOC filing. *Ameen v. Amphenol Printed Circuits, Inc.*, 777 F.3d 63, 70 (1st Cir. 2015) ([Plaintiff] must show the retaliator knew about [her] protected activity – after all, one cannot have been motivated to retaliate by something he was unaware of”) (alteration in original) (quotation marks and citation omitted). Further, to the extent that Complainant alleges that she was being retaliated against for purporting to dispute Ms. Benoit’s legitimate concerns about Complainant’s performance, such activities are not related to her stated disabilities or protected under Chapter 151B, Title VII, or the ADA, and thus cannot serve as a basis for her retaliation claim here.

III. COMPLAINANT CANNOT ESTABLISH A CLAIM FOR FAILURE TO ACCOMMODATE.

To establish a claim for failure to accommodate, Claimant must demonstrate that (1) she has a physical or mental impairment that substantially limits one or more major life activities, (2) with or without reasonable accommodation, she was a qualified individual able to perform the essential functions of the position involved, and (3) Respondents, despite knowing of her disability, did not reasonably accommodate it. *Kinch v. Quest Diagnostics, Inc.*, 652 F. Supp. 2d 131, 133 (D. Mass. 2009).

Complainant fails to establish a *prima facie* case of failure to accommodate because she applied and was approved for leaves of absence starting in May of 2024 and November 2024, which constitute reasonable accommodations under both the ADA and state law. *Russell v. Cooley Dickinson Hosp., Inc.*, 437 Mass. 443, 445 (2002). Complainant has not shown that she otherwise made any other request for accommodation related to her purported disability. Thus, her claim fails as a matter of law. *Kinch*, 652 F. Supp. 2d at 134 (“Typically, an employee must request an accommodation. That obligation ‘stems from the basic principle that an employer is not required to accommodate a need that it does not know exists.’”) (quoting *Ocean Spray Cranberries, Inc. v. Mass. Comm’n Against Discrimination*, 441 Mass. 632, 649 n. 21 (2004)).

IV. COMPLAINANT CANNOT ESTABLISH THAT RESPONDENTS INTERFERED WITH HER RIGHTS UNDER CHAPTER 151B.

In her Charge, Complainant also appears to assert a claim of “Interference.” Charge at 1. However, the Charge does not include sufficient factual detail to enable Respondents to provide a detailed response to this allegation, which Respondents deny. To the extent Complainant alleges that Respondents interfered with her rights under Chapter 151B, such a claim fails. “Absent actionable discriminatory conduct, there exists no basis on which to ground a claim of interference.” *McLaughlin v. City of Lowell*, 84 Mass. App. Ct. 45, 46 (2013). Complainant’s inability to state a claim for discrimination, as set forth above, precludes any claim for interference. *Id.* Where, as set forth above, Complainant cannot establish that she was subject to any discriminatory conduct, her claim for interference must fail as a matter of law.

ADDITIONAL DEFENSES AND RESPONSES

1. Complainant fails to state a claim on which relief may be granted.
2. To the extent Complainant bases any of her claims on alleged events occurring outside of the 300-day limitations period, such claims are time-barred.
3. Complainant’s claims are barred to the extent that she fails to set forth a *prima facie* case of discrimination on the basis of any protected category.
4. Complainant’s retaliation claim fails because she fails to set forth a *prima facie* case of retaliation.
5. Complainant’s failure to accommodate claim fails because she fails to set forth a *prima facie* case of failure to accommodate.

6. To the extent Complainant's claims are based on alleged disparate treatment, Complainant fails to compare herself to a similarly situated employee outside of her alleged protected classes.
7. Complainant's claims are not actionable because the employment practices and decisions challenged in the Charge of Discrimination are justified by legitimate, non-discriminatory and non-retaliatory reasons, and Complainant fails to prove that Respondents' articulated reasons for any action were a pretext for discrimination or retaliation.
8. Respondents have complied with all laws and regulations and otherwise satisfied their statutory obligations toward Complainant under Mass. Gen. Laws c. 151B and federal law.
9. Without conceding that Complainant has suffered any damages as a result of any purportedly wrongful act of Respondents, Complainant has failed to mitigate her damages.

CONCLUSION

For the foregoing reasons, Respondents Boston Children's Hospital and Genevieve Benoit respectfully request that the Charge be dismissed.

Respondents reserve the right to submit additional evidence and to raise defenses in support of their position in this matter, as necessary. Please do not hesitate to reach out to us if you require further information.

Very truly yours,

Seyfarth Shaw LLP



Dawn R. Solowey

cc: Adrienne C. Lee, Esq.
Austin W. Smith, Esq.
Patrick J. Hannon, Esq.

Affirmation by Respondent Boston Children's Hospital

I hereby certify and affirm, under pains and penalty of perjury, consistent with 804 CMR § 1.05(8)(d), that I have reviewed this Position Statement and that it contains accurate and truthful information to the best of my knowledge, information, and belief.

Dated: January 28, 2026

Scott Shannon

Scott Shannon
Lead Employee Relations Advisor
Boston Children's Hospital

Affirmation by Respondent Genevieve Benoit

I hereby certify and affirm, under pains and penalty of perjury, consistent with 804 CMR § 1.05(8)(d), that I have reviewed this Position Statement and that it contains accurate and truthful information to the best of my knowledge, information, and belief.

Dated: January 28, 2026

Genevieve Benoit

Genevieve Benoit

EXHIBIT 1



**Boston
Children's
Hospital**

Where the world comes for answers

Effective 11/18/2022
Next Review 11/17/2025

Owner Rich Robles
Department Human Resources
Applicability Boston Children's Hospital- Policies & Procedures

Diversity, Equal Employment Opportunity, and Affirmative Action Policy/Procedure

Internal Approval

VP and Chief Diversity Officer

Scope

This policy applies to all Boston Children's employees.

Policy Statements

- Boston Children's Hospital is an Equal Employment Opportunity employer. BCH complies with federal and state laws prohibiting discrimination on the basis of race, religion, color, gender, sexual orientation, gender identity, pregnancy, national origin, ancestry, ethnicity, age, disability, military or veteran status or any other classification protected by applicable law in hiring, promotion, compensation, benefits, employment practices and other terms and conditions of employment.
- Discrimination against applicants and employees in hiring and promotion and all other terms and conditions of employment is prohibited and will not be tolerated.
- If you have concerns about discrimination in the hiring or promotion process, please go to the [Policy Against Discrimination, Discriminatory Harassment and Retaliation](#) for information about making a complaint. You may also reach out directly to Human Resources to make a complaint by emailing BCHEmployeeRelations@Childrens.harvard.edu.
- Boston Children's Hospital is an affirmative action employer under federal law. As an affirmative action employer, and in support of the values of diversity and equal employment opportunity, BCH strives to attract a diverse applicant pool of qualified candidates for each open position.

- BCH will comply with all affirmative action requirements.

Procedures

Diversity at Boston Children's Hospital

- Boston Children's Hospital honors and recognizes the value of a diverse hospital community, including a diverse workforce at all levels of BCH.
- BCH creates, delivers, and supports many programs and avenues for developing a workforce that is diverse, inclusive and respectful of everyone. These include recruitment efforts and programs, diversity training, awareness workshops, cultural competency training programs and many other resources.
- Additional information on hospital wide diversity resources and initiatives can be found on BCH's Diversity webpage at <http://web2.tch.harvard.edu/diversity/> and at the Office of Health Equity and Inclusion.

Affirmative Action

- BCH is committed to ensuring that equal opportunities for training, advancement, and promotion are available to everyone.
- BCH's affirmative action program may include any of the following:
 - designing and implementing recruitment events, programs, job fairs and other initiatives to ensure BCH is attracting a diverse applicant pool of qualified candidates, including women, minorities and individuals with disabilities;
 - evaluating existing recruitment channels and exploring new sources to expand the diversity of the applicant pool;
 - complying with applicable laws and regulations concerning affirmative action;
 - educating the BCH community about its affirmative action obligations and programs;
 - tracking the gender and race of applicants, and of employees who are hired, promoted and terminated; and
 - identifying other needs, objectives and steps to meet BCH's overall commitment to affirmative action.
- The Vice President, Chief Diversity Officer serves as BCH's affirmative action officer and oversees BCH's affirmative action obligations.

Related Content

[Policy Against Discrimination, Discriminatory Harassment and Retaliation](#)

Approval Signatures

Step Description	Approver	Date
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Applicability

Boston Children's Hospital- Policies & Procedures

COPY



Where the world comes for answers

Effective 4/12/2024
Next Review 4/12/2027

Owner Lisa Abbott
Department Human Resources
Applicability Boston Children's Hospital- Policies & Procedures
Chapter / Tags Nondiscrimination

Policy Against Discrimination, Discriminatory Harassment and Retaliation Policy/Procedure

Internal Approval

Executive Vice President, Chief Human Resources Officer

Policy Steering Committee

Scope

This policy applies to all Boston Children's administrative, operational, and clinical departments, and hospital licensed locations, and to all providers and staff (employees, contracted staff, and scientific research staff), and other Associated Personnel, and to applicants for employment with Boston Children's. The policy also applies to foundation practices leasing space at hospital-licensed locations.

Policy Statements

- Discrimination, discriminatory harassment, and retaliation are incompatible with the values of Boston Children's Hospital and will not be tolerated.
- Discrimination and discriminatory harassment on the basis of race, traits historically associated with race, religion, color, gender, sexual orientation, gender identity, pregnancy, national origin, ancestry, ethnicity, age, physical or mental disability, genetic information, military or veteran status, or any other classification protected by law (also called a 'protected class') is prohibited.
- Boston Children's Hospital prohibits any discriminatory communication or behavior towards employees, staff, patients, families, applicants, vendors and/or visitors, made in person, online,

or through any other platform, during and outside of work hours, within and away from the physical workplace.

- Boston Children's prohibits retaliation against an individual who has complained about discrimination or discriminatory harassment, or against any individual for cooperating with an investigation into allegations of discrimination or discriminatory harassment.
- Boston Children's complies with Federal and State civil rights laws and regulations, and is committed to providing its programs and services without discrimination in accordance with:
 - Title Vi of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin (including language);
 - Section 504 of Rehabilitation Act of 1973, which prohibits discrimination based on disability;
 - Title IX of the Education Amendments Act of 1972, which prohibits discrimination based on sex in education programs or activities;
 - Age Discrimination Act of 1975, which prohibits discrimination based on age; and
 - U.S. Department of Homeland Security regulation 6 C.F.R. Part 19, which prohibits discrimination based on religion in social service programs.
- It is against the law for BCH to retaliate against anyone who takes action to oppose discrimination, files a grievance, or participates in the investigation of a grievance in accordance with the above authorities.

Procedures

- BCH requires all individuals covered by this policy to recognize conduct that may constitute discrimination, discriminatory harassment, or retaliation and not to engage in this conduct. Discrimination can arise in a variety of circumstances and take different forms. While this is not an exhaustive list, some examples of conduct prohibited by BCH includes:
 - using advertisements, publications, or job applications that suggest restrictions in hiring based on a protected class;
 - asking job applicants where they were born, where their families or spouses were born, or the origin of their name;
 - refusing to hire a job applicant based on a protected class;
 - refusing to promote an individual based on a protected class;
 - terminating an individual based on a protected class;
 - paying lower wages or giving fewer benefits to an individual based on a protected class;
 - imposing arbitrary workplace rules intended to affect the terms and conditions of employment of individuals in a protected class;
 - epithets, slurs, stereotyping or humor directed at or about individuals in a protected class;
 - threatening, intimidating, or hostile acts that relate to a protected class;
 - written or graphic material that demeans, denigrates or shows hostility toward a

- protected class, including material circulated through e-mail, text messages, social media, and other electronic platforms;
- conduct that demeans, denigrates or shows hostility or aversion toward an individual based on a protected class when that conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or offensive work environment.
- Discriminatory, offensive, intolerant or disrespectful conduct based on a protected class that is directed at, concerning, or affecting patients, families, or visitors of BCH is likewise prohibited.
- Individuals covered by this policy are expected to be aware of and to comply with all ethical and professional rules of conduct applicable to their position, including any professional or regulatory rules or guidelines relating to discrimination.
- Communication or conduct which BCH determines is offensive, intolerant, or disrespectful may violate this policy, even if the conduct does not meet the legal standard for discrimination or harassment.

Retaliation

- BCH prohibits retaliation against an individual who has complained about discrimination or discriminatory harassment, assisted another individual to report discrimination or discriminatory harassment, participated in an investigation into allegations of discrimination or discriminatory harassment, or filed a charge with the EEOC or other state governmental agency. Retaliation includes any adverse employment action (e.g., demotion, assignment to less desirable projects, verbal abuse, etc.) taken against an individual because of the conduct described in this paragraph. All employees who experience or witness any conduct they believe to be retaliatory should immediately follow the reporting procedures stated below.
- Any individual who is found to have engaged in retaliation will be subject to disciplinary action, including termination of employment.

Reporting Discrimination, Discriminatory Harassment or Retaliation

- Individuals covered by this Policy who believe that they have experienced or witnessed discrimination, discriminatory harassment, or retaliation, at BCH should make a report to the BCH Human Resources Department immediately by emailing BCHEmployeeRelations@childrens.harvard.edu. You may also use this email address to request a phone call or a meeting with a member of the Employee Relations Department. You may also call 617-355-7780 to speak with an Employee Service Center representative.
- In addition, individuals who have experienced discrimination, discriminatory harassment, or retaliation may also make a report to:
 - their direct supervisor;
 - another supervisor or manager within their own department;
 - the supervisor or manager of the department where the discrimination, discriminatory harassment or retaliation occurred if different from the individual's

- department;
 - Any director, vice-president, executive or officer of BCH;
 - Any Chief of Service of any clinical division or department;
 - Chief Compliance Officer;
 - Anonymous Compliance Hotline (888-801-2805); or
 - The Office of General Counsel.
- Any individual in a managerial or supervisory role at BCH who witnesses, receives a complaint, or becomes aware of discrimination, discriminatory harassment, or retaliation by, affecting, or involving a BCH Employee, member of the Medical Staff, Volunteer, or Associated Personnel must report it to the Employee Relations Department in Human Resources immediately by emailing BCHEmployeeRelations@childrens.harvard.edu
 - Individuals who wish to make a complaint may do so by making an oral complaint and/or preparing a written statement. If the individual requires a translator in order to make the complaint, the Human Resources Department will assist with obtaining a translator.
 - BCH is committed to investigating and resolving in a timely manner all complaints involving allegations of workplace discrimination, discriminatory harassment, or retaliation. Human Resources may notify other entities and take other action if the conduct involves individuals who are not under BCH's control or direction.
 - Individuals who have witnessed or experienced discrimination, discriminatory harassment, or retaliation and are not employed by BCH should also contact their own employer's human resources department or designated representative for receiving complaints.

Investigation

- An investigation into a complaint may include one or more of the following actions, as appropriate to the investigation:
 - Confidential interviews of the complainant(s) and witnesses.
 - Reviews of emails, internet activity and other computer information.
 - Individuals being placed on paid or unpaid administrative leave during the investigation.
 - Temporary changes in schedule or location as necessary
 - Requests not to contact
 - Involvement of the Office of General Counsel
 - Written findings
- BCH will maintain confidentiality to the greatest extent practicable under the circumstances. When unavoidably necessary to the investigation, the alleged subject of the complaint may learn of the complaint and the identity of the complainant as necessary. If the complainant has any concerns about retaliation, the complainant should notify Human Resources immediately.

Remedial Action

- BCH will take appropriate remedial action for violations of this Policy. Any individual who is

found to have violated this policy will be subject to disciplinary action, up to and including termination of employment, or loss of privileges and termination of access to all BCH facilities and systems.

- When appropriate, the results of the investigation and its disposition may be shared with the complainant and/or the subject of the complaint.

Filing a Complaint with the MCAD or EEOC

- Any individual who believes they have been subjected to discrimination, discriminatory harassment or retaliation may file an administrative complaint with either or both of the government agencies set forth below. Making a complaint under this policy does not prohibit the individual from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC—300 days; MCAD—300 days).

Massachusetts Commission Against
Discrimination (MCAD)
One Ashburton Place, 6th Floor, Room 601
Boston, MA 02108
(617) 7994-6000
TTY: (617) 994-6196
[MCAD Website](#)

U.S. Equal Employment Opportunity
Commission (EEOC)
JFK Federal Building,
475 Government Center
Boston, MA 02203
(800) 669-4000
TTY: (800) 669-6820
[EEOC Website](#)

Related Content

[Disciplinary Policy and Standards of Conduct Policy](#)

[Sexual Harassment Policy](#)

[Termination of Employment Policy](#)

[Use of Social Media Policy](#)

Keywords: Harassment, Nondiscrimination, Retaliation, Discriminatory, Retaliate

Approval Signatures

Step Description	Approver	Date
Co-chair Approval	Timothy Hogan	4/12/2024
Site Administrator: Education/ Training Requirement	Ian Weijer: Site Admin	4/12/2024
Steering Committee	Ian Weijer: Site Admin	4/12/2024

Required Departmental Review/Approval	Lisa Abbott	4/3/2024
Committee Chair(s)	Lisa Abbott	4/3/2024
Contributor(s)	Lisa Abbott	4/3/2024
Document Owner	Lisa Abbott	4/3/2024

Applicability

Boston Children's Hospital- Policies & Procedures

OLD

EXHIBIT 2



Where the world comes for answers

EMPLOYEE CORRECTIVE ACTION NOTICE: WRITTEN COUNSELING

Date April 9th, 2024

Employee Name Andrea Roxton ID# 099371

Job Title Ambulatory Clinic Supervisor II

Department Urology

Supervisor Genevieve Benoit

Hire Date 7/2/2001

RE: Performance Expectations

Andrea, this counseling will summarize our meeting on **April 9th, 2024**.

We discussed the recent concerns with your performance as it relates to **Performance Expectations and Patient Risk/Patient Safety**

Failure to learn and perform your job responsibilities as Ambulatory Clinical Supervisor II has led to unsatisfactory job performance. Examples include inability/unwillingness to register new patients, inability/unwillingness to book patient visits and assist on call center line, and enforce effective workqueue oversight to ensure timely scheduling.

It was identified in November 2023 that the urology referral order workqueue needed to be actively monitored. Concerns were brought to management's attention in December 2023 that the queue was not being adequately managed, and you were asked to ensure proper oversight. In January 2024 there was again concern that patients were not being outreached to. It was reiterated to you that actively scheduling patients from this queue is a high priority. On 4/1/24 there was an email sent regarding a referral that had been in the queue since April of 2023. The department's commitment to patient safety and optimal health outcomes for all has been jeopardized given recurrent instances of ineffective oversight of this workqueue leading to delayed outreach to patients.

In February 2024, you noted you did not know how to perform the job of the back-office patient experience representative (PER), including call center duties and scheduling patients. There has been minimal progress made, so we again discussed your call center/administrative competencies in March. We agreed that a more rigid training schedule was necessary. The goal of this plan is to equip you with the proper knowledgebase and tools to be able to perform all call center and PER job duties and enable you to help support department administration. As part of remediation, the plan will consist of:

1. If no noted improvement is made within the next 4 weeks, remote work access privileges may be revoked temporarily. Privileges would be reinstated upon successful completion of plan and manager approval.
2. Training on call center for 20 hours/week (one 4-hour shift/day).
3. Training on administrative duties training for 8 hours/week (two 4-hour shifts/week).

In the past:

A Verbal coaching was discussed with you regarding the workqueue on 12/22/23 and 4/1/24 and performance expectations were reviewed on 3/21/24.

This failure to meet consistent productivity expectations does not meet our BCH Core Performance Standards reflecting

Accountability "We hold ourselves accountable to standards of performance. We take responsibility for what we do and we always keep the long-term good of the organization in mind."

Excellence "We strive for excellence both in what we do but how we do it. We challenge ourselves to continually look for ways to improve what we do in service of patients and families."

Communication "We communicate clearly, honestly, listen carefully and with an open mind. We respond thoroughly and promptly. We try to be proactive in our communication and willing to surface difficult issues."

Teamwork: "We work with others effectively and rely on the team's support and trust. We acknowledge and demonstrate positive attitudes about the team, its members, and its ability to get its mission accomplished "

Failure to meet performance standards as they relate to job expectations and patient risk/patient safety has violated the BCH discipline policy and standard of conduct which states, "standards of conduct are essential to ensuring the highest standards of care and service for our patients and their families and the best working environment for our staff" As such, not properly supervising the urology order referral workqueue can " harm the reputation or interests of the Hospital or that has a reasonable potential to hard the reputation or interests of the Hospital"

During our meeting, we reviewed the following expectations of your role as Ambulatory Clinic Supervisor II in the Department of Urology as well as our **clinical/unit/department specific protocols and procedures**.

Expectations reviewed included

- Open, clear, respectful, and professional communication to all colleagues
- Weekly meetings and progress updates with/to manager.
- Attendance at all team meetings when presence is encouraged/required
- Effective resource allocation to ensure appropriate workqueue management
- Cover front desk when needed.
- Ability to cover PER colleagues during planned/unplanned absences
- Taking initiative to field calls when patient queues/wait times are high
- Satisfactory completion of performance improvement plan
- Maintaining supervision/oversight of subordinates

I (Genevieve) will help support your administrative responsibilities to provide you the bandwidth to complete training requirements over the next four weeks

Immediate and sustained improvement in your performance is expected. If you fail to meet these performance standards further disciplinary action will result in a Performance Improvement Notice/Final Warning (PIN) Additionally, any other future job performance problems, even those unrelated to the issues above, may also result in a PIN or termination depending on the severity of the situation

Please sign below to indicate your understanding about the need to improve and willingness to meet the expectations outlined in this corrective action Please be aware that should you chose not to sign this document, you are still expected to comply with the outlined performance standards

<u>Refused to sign</u>	
Employee Signature	Date
<u>[Signature]</u>	<u>04/09/2024</u>
Supervisor Signature	Date
<u>[Signature]</u>	<u>4/23/2024</u>
HR Business Partner Signature	Date
Additional Signature, if needed	Date

If you have any personal problems, which may affect your ability to meet these standards or any other job performance standards you are encouraged to use the Hospital's free and confidential Employee Assistance Program Counselors can be reached 24 hours a day, 7 days a week at 1-800-648-9557

EXHIBIT 3



Where the world comes for answers

EMPLOYEE CORRECTIVE ACTION NOTICE: WRITTEN COUNSELING

Date 11/11/24

Employee Name. Andrea Roxton ID# 099371

Job Title Ambulatory Clinic Supervisor II

Department Urology

Supervisor Genevieve Benoit

Hire Date 07/02/2001

RE: Performance Expectations

Andrea, this counseling will summarize our meeting on **11/11/24**

We discussed the recent concerns with your performance as it relates to **Performance Expectations and Professionalism**

Failure to execute your responsibilities as Ambulatory Clinical Supervisor II has led to unsatisfactory job performance. Examples include failure to schedule patient appointments, insufficient throughput when assuming ownership of tasks, and breaches of professionalism.

On 05/17/24 you communicated to me that you were helping the workqueue where needed and had outreached/scheduled off Dr. Ted and Dr. Nelson's workqueues to help bring the count down. Data shows that you had scheduled 2 patients from 1/1/24-5/17/24. On 09/13/2024 you were taught how to transcribe workqueue information from EPIC Legacy to EPIC Mosaic. You were also provided training materials to help support task completion. It was expressed that Phillip, Julie, and I were available should any questions surrounding the process arise. On 9/25/24 you were asked to perform workqueue transcription on 09/25/24 and 09/27/24. On 09/30/24 you were asked to transcribe orders and schedule patients between the dates of 10/1/24 and 10/4/24; data demonstrates you had scheduled 0 patients between that timeframe. On 10/24/24 you declined to help schedule patients from Dr. Kurtz's follow-up workqueue due to lack of downtime. On 10/25/24 you further detailed, "Regarding having no down time I am assisting Mark in scheduling his work queues." Data shows that you have scheduled 1 patient between 10/25/24 and 11/1/24.

On 10/01/2024 I emailed you inquiring who could help reschedule patients slated to see our APCs on 10/7, 10/16, 10/18, 10/21, and 10/30 as requested by Megan Sosensky. You responded to my email, noting that you were working on the request. On 10/9 Megan Sosensky emailed me again as the task was not complete. I emailed you in follow-up to this, requesting an update. You were out of office at the time of my email (10/9), so I asked another PER to help reschedule the patients. You never responded to my email providing an update. On 10/21/24 you agreed to call all Testopel patients on 10/24/24 in preparation for their scheduled treatment on 10/25/24. You also noted that you would keep myself and another colleague posted on the outcome. On 10/25/24 I emailed you asking if any of the Testopel patients needed to be rescheduled. You responded that you were busy and did not remember to call the families. On 10/24/24, I looped you into a communication from one of our RNs and asked if we could see if one of the PERs could help reschedule a patient. You had not responded to my email. I subsequently outreached to a PER to help reschedule the patient on 10/28.

On 10/15/24, two employees informed me of interactions they had with you where you expressed that you were not kept in the loop of certain information. As outlined in our meeting minutes from 9/30/24, it is important to showcase alignment on messaging to staff including staffing/support strategy, current state initiatives and long-term goals. It was also reviewed during that discussion that it is imperative to demonstrate a collegial and trusting partnership and illustrate a positive and optimistic demeanor in all settings.

On 9/25/24 an employee who was scheduled to cover the front desk from 4:15p-5:00p had called out in the morning. You had subsequently requested, with minimal notice, to leave early on 9/25/24 and expressed that administrative personnel would be covering the front desk until 4:40p. I inquired who was scheduled to cover the front desk until 5:00p as our last patient was scheduled at 4:45pm, without response. As such, I covered the front desk until the last patient visit was completed as there was no one scheduled to cover the front desk. On 11/5/24 I was altered by a colleague at 8:10a that

there was a line of patients waiting at the front desk and that they were unable to find you. I immediately got up from my desk and proceeded to the front desk, the lobby was chaotic and there was a line of patients waiting to be helped. As such, I sat down and began checking patients in. Shortly after, I proceeded to ask you if you had been in clinic given you were not able to be found. You noted that you were in the back. It is imperative that you are available and present to help support front desk operations.

Failure to meet the standards of performing your role as Ambulatory Clinic Supervisor II relating to performance expectations and professionalism is in direct violation of the BCH discipline policy which states that, "Members of the Boston Children's Hospital Community are committed to honesty, integrity and diligence in performing all daily activities and functions." The failure to meet consistent productivity expectations does not meet our BCH Core Performance Standards reflecting:

Accountability: "We hold ourselves accountable to standards of performance. We take responsibility for what we do and we always keep the long-term good of the organization in mind."

Excellence: "We strive for excellence both in what we do but how we do it. We challenge ourselves to continually look for ways to improve what we do in service of patients and families."

Communication: "We communicate clearly, honestly, listen carefully and with an open mind. We respond thoroughly and promptly. We try to be proactive in our communication and willing to surface difficult issues."

Teamwork: "We work with others effectively and rely on the team's support and trust. We acknowledge and demonstrate positive attitudes about the team, its members, and its ability to get its mission accomplished."

In the past:

Failure to execute job responsibilities previously warranted a Written Counseling on *April 9th, 2024* for Performance Expectations and Patient Risk/Patient Safety. The expectations reviewed at the time of counseling included:

- Open, clear, respectful and professional communication to all colleagues
- Weekly meetings and progress updates to manager
- Attendance at all team meetings when presence is encouraged/required
- Effective resource allocation to ensure appropriate workqueue management
- Cover front desk when needed
- Ability to cover PER colleagues during planned/unplanned absences
- Taking initiative to field calls when patient queues/wait times are high
- Satisfactory completion of performance improvement plan
- Maintaining supervision/oversight of subordinates

The goal of this plan is to ensure effective support to ambulatory operations and optimal PER support shaped by timely and complete throughput on all job duties/responsibilities and fostering a positive and professional culture driven by united partnerships. During our meeting, we reviewed the following expectations of your role as Ambulatory Clinic Supervisor II in the Department of Urology as well as our **clinical/unit/department specific protocols and procedures**.

Additional expectations resulting from today's counseling include:

- Successful completion of tasks when assigned/claiming ownership
- Timely throughput on all responsibilities as required to maintain sufficient ambulatory operations
- Ensure coverage at front desk
- Ability/willingness to schedule patients from the workqueue when assigned
- Making a concerted effort to help foster a positive culture across all sectors of the department

Immediate and sustained improvement in your performance is expected. If you fail to meet these performance standards, further disciplinary action will result in a Performance Improvement Notice/Final Warning (PIN). Additionally, any other future job performance problems, even those unrelated to the issues above, may also result in a PIN or termination depending on the severity of the situation.

Please sign below to indicate your understanding about the need to improve and willingness to meet the expectations outlined in this corrective action. Please be aware that should you choose not to sign this document, you are still expected to comply with the outlined performance standards.

Revision: 2024

Original – Human Resources/Employee File

Copy – Employee

Copy – Manager/Supervisor



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Refusal to sign _____ 11/11/2024
Employee Signature Date

AB: A _____ 11/11/2024
Supervisor Signature Date

HR Business Partner Signature Date

Additional Signature, if needed Date

If you have any personal problems, which may affect your ability to meet these standards or any other job performance standards you are encouraged to use the Hospital's free and confidential Employee Assistance Program. Counselors can be reached 24 hours a day, 7 days a week at 1-800-648-9557.