

# Resolving Employee Grievances



## Introduction

Employees have specific rights in the workplace, which are protected by law. If an employee believes his or her rights have been violated, he or she may submit a formal employee grievance to his or her employer. To help manage and resolve formal employee grievances, health care organizations should have effective employee grievance policies and procedures in place. With that in mind, this course reviews employees' rights in the workplace, provides insight into effective employee grievance policies and procedures, and explores how administrators can establish effective employee grievance policies and procedures within their health care organization.

## Section 1: Employee Rights

### *Case Study 1*

Nurse A and Nurse B have been working together for the past six months. During the aforementioned time period Nurse A noted that Nurse B made several derogatory comments regarding Nurse A's appearance, work style, and overall personality. Nurse B's comments towards Nurse A include the following: "You do not look good today," "You are not a good nurse," "You are not good at your job," "You are not a good person to work with," etc. Nurse A is confused by Nurse B's comments because Nurse A recently received a positive work review and has always gotten along with coworkers. Over the next few weeks, Nurse B's comments towards Nurse A intensify in nature. Additionally, Nurse B attempts to intimidate Nurse A into quitting by looming over Nurse A and making direct comments to Nurse A such as: "You are a terrible nurse, just quit your job," "You are going to make a mistake," "You are a terrible nurse, so quit today." The intimidation and direct comments related to Nurse A quitting go on for another week. By the end of the week, Nurse A begins to become distraught, nervous about working with Nurse B, and overall uneasy about how to proceed.

### *Case Study 2*

Nurse C returns home after completing a shift. Shortly after arriving home, Nurse C receives a phone call from Nurse Manager D regarding a patient's medications. Nurse Manager D asks Nurse C if a specific patient's afternoon medications were administered. The patient in question is a 42 year-old, lucid male. Nurse Manager D proceeds to explain to Nurse C that the patient verbally acknowledged that he received his afternoon medications, however there is no health care documentation noting that the patient did indeed receive his afternoon medications. After a brief discussion Nurse C confirms that the patient did receive his afternoon medications.

The next day Nurse C begins another shift. Before Nurse C can get situated, Nurse Manager D confronts Nurse C in a medication room regarding the lack of health care documentation related to the aforementioned patient. The conversation regarding the health care documentation quickly escalates and Nurse Manager D enters Nurse C's personal space and begins to speak louder. Nurse C takes a step back to de-escalate the intensity of the conversation, however Nurse Manager D takes another step forward, forcing Nurse C to take a step back, and once again escalates the conversation. Nurse Manager D then threatens to fire Nurse C, over the previously highlighted incident. Nurse C is not sure how to respond and begins to feel extremely uncomfortable. Nurse C attempts to leave the medication room, but Nurse Manager D blocks the door and continues to escalate the conversation. Nurse C calmly responds by explaining that the lack of health care documentation regarding the patient in question's medications was an isolated incident (Nurse C has an exemplary work record, which dates back over 6 years of employment). Before Nurse C can finish speaking, Nurse Manager D interrupts Nurse C with additional comments related the incident. Nurse Manager D also begins to question Nurse C's sexuality. Nurse C becomes increasingly uncomfortable and expresses the feelings of discomfort to Nurse Manager D. Nurse Manager D responds to Nurse C by saying that is "too bad," and by making additional derogatory comments about Nurse C's perceived sexual preference. Eventually, Nurse Manager D aggressively leaves the medication room. Nurse C is left reeling and feeling horrible. Nurse C is not sure what to do next and is fearful that there will be another negative encounter with Nurse Manager D in the future. Nurse C is also left wondering if the previously highlighted incident had anything to do with sexual preference.

### *Case Study 3*

Nurse E works in a health care facility that was built several decades ago. The facility has recently undergone renovations - however, some of the medication rooms have yet to be renovated. While working in one of the medication rooms that has yet to be renovated, Nurse E notices that a shelving unit appears to be loose. The potentially loose shelving unit is right above a sink. Nurse E is concerned that the shelving unit could fall right off the wall and strike or land on an individual using the sink right below it. Essentially, Nurse E believes the shelving unit is a hazard. Nurse E expresses the concern to a manager. A week goes by and no action is taken regarding the shelving unit. The next week Nurse E hears a loud crash coming from the medication room with the potentially loose shelving unit. Nurse E investigates the sound. Upon entering the medication room, Nurse E observes pieces of the shelving unit on the sink and on the floor. Apparently, the shelving unit collapsed. Nurse E's concerns regarding the hazardous shelving unit are confirmed. Nurse E feels it is very fortunate that no one was injured in the incident, but becomes increasingly worried about additional

older shelving units in other medication rooms throughout the health care facility. One particular shelving unit sticks out in Nurse E's mind. Nurse E would like to make the management team within the health care facility aware of the additional potentially hazardous shelving unit as well as other noted potential work-related hazards. Once again, Nurse E approaches a manager. The manager informs Nurse E that the potential hazards will be looked into by the management team. Nurse E does not receive any kind of follow-up regarding the potential hazards.

The three case studies presented above highlight situations involving the potential violation of employee work-related rights. Situations similar to the ones outlined in the three previous case studies should not happen in the workplace, however the simple truth of the matter is that they often do. The question that remains is, what can employees do when they are faced with scenarios that potentially violate their work-related rights? The straight forward answer to the previous question is, they can submit a grievance. A grievance may refer to a matter of concern regarding a potential violation of work-related rights, which is formally submitted, without fear of retaliation, and requires a formal response.<sup>1,2</sup> In essence, in workplace settings, a grievance can be a method or a means for employees to safeguard their rights in the workplace, which are protected by law. All employees, independent of race, gender, and background have specific rights which apply to the workplace. Due to the importance of rights in the workplace, administrators of all kinds should be familiar with laws that apply to specific rights in the workplace to ensure their organization is upholding workplace rights and to, ultimately, protect themselves and their organization from any litigation that may follow a breach in said rights. With that said, the remainder of this section will review pertinent laws and acts which apply to workers' rights. The information found in this section will be broken down into individual laws and acts and presented in information segments. The information found in this section was derived from materials provided by the Federal government of the United States of America.<sup>1,2</sup>

### ***Occupational Safety and Health Act of 1970 (OSH Act)***

- The OSH Act was passed to prevent workers from being killed or otherwise harmed at work.
- The law requires employers to provide their employees with working conditions that are free of known dangers.
- The OSH Act created the Occupational Safety and Health Administration (OSHA), which sets and enforces protective workplace safety and health standards.

- The OSH Act gives workers the right to safe and healthful working conditions. It is the duty of employers to provide workplaces that are free of known dangers that could harm their employees. This law also gives workers important rights to participate in activities to ensure their protection from job hazards.
- The OSH Act states that employers have the responsibility to provide a safe workplace. Employers must provide their employees with a workplace that does not have serious hazards and must follow all OSHA safety and health standards.
- The OSH Act states that employers must inform workers about hazards through training, labels, alarms, color-coded systems, chemical information sheets and other methods.
- The OSH Act states that employers must train workers in a language and vocabulary they can understand.
- The OSH Act states that employers must keep accurate records of work-related injuries and illnesses.
- The OSH Act states that employers must perform tests in the workplace, such as air sampling, required by some OSHA standards.
- The OSH Act states that employers must provide hearing exams or other medical tests required by OSHA standards.
- The OSH Act states that employers must post OSHA citations and injury and illness data where workers can see them.
- The OSH Act states that employers must notify OSHA within 8 hours of a workplace fatality or within 24 hours of any work-related inpatient hospitalization, amputation or loss of an eye.
- The OSH Act states that employers must not retaliate against workers for using their rights under the law, including their right to report a work-related injury or illness.
- The OSH Act states that employers must comply with the General Duty Clause of the OSH Act. This clause requires employers to keep their workplaces free of serious recognized hazards and is generally cited when no specific OSHA standard applies to the hazard.
- The OSH Act states that employers must provide most protective equipment free of charge. Employers are responsible for knowing when protective equipment is needed. Examples of protective equipment include: respirators, goggles, and gloves.

- OSHA gives workers and their representatives the right to see information that employers collect on hazards in the workplace. Workers have the right to know what hazards are present in the workplace and how to protect themselves. Additionally, the Hazard Communication standard, known as the “right-to-know” standard, requires employers to inform and train workers about hazardous chemicals and substances in the workplace.
- Many OSHA standards require employers to run tests of the workplace environment to find out if their workers are being exposed to harmful levels of hazardous substances such as lead or asbestos, or high levels of noise or radiation. These types of tests are called exposure monitoring. OSHA gives workers the right to get the results of these tests.
- OSHA conducts on-site inspections of worksites to enforce the OSHA law that protects workers and their rights. On-site inspections can be triggered by a worker complaint of a potential workplace hazard or violation.
- Workers and their representatives have the right to ask for an inspection without OSHA telling their employer who filed the complaint. It is a violation of the OSH Act for an employer to fire, demote, transfer or retaliate in any way against a worker for filing a complaint or using other OSHA rights.
- When the OSHA area director determines that there has been a violation of OSHA standards, regulations, or other requirements, the area director issues a citation and notification of proposed penalty to an employer (typically following an inspection).
- A citation includes a description of the violation and the date by when the corrective actions must be taken. Depending on the situation, OSHA can classify a violation as serious, willful, or repeat. The employer can also be cited for failing to correct a violation for which it has already been cited. Employers must post a copy of a citation in the workplace where employees will see it.
- Workers and employers can contest citations once they are issued to the employer. Workers may only contest the amount of time the employer is given to correct the hazard. Workers or their representatives must file a notice of contest with the OSHA area office within 15 days of the issuance of a citation.
- Employers have the right to challenge whether there is a violation, how the violation is classified, the amount of any penalty, what the employer must do to correct the violation and how long they have to fix it. Workers or their representatives may participate in this appeals process by electing “party status.”

This is done by filing a written notice with the Occupational Safety and Health Review Commission (OSHRC).

- The OSHRC hears appeals of OSHA citations. They are an independent agency separate from the Department of Labor.
- The OSHA area director evaluates complaints from employees or their representatives according to the procedures defined in the OSHA Field Operations Manual. If the area director decides not to inspect the workplace, he or she will send a letter to the complainant explaining the decision and the reasons for it.
- OSHA will inform complainants that they have the right to request a review of the decision by the OSHA regional administrator. Similarly, in the event that OSHA decides not to issue a citation after an inspection, employees have a right to further clarification from the area director and an informal review by the regional administrator.
- The OSH Act prohibits employers from retaliating against their employees for using their rights under the OSH Act. These rights include filing an OSHA complaint, participating in an inspection or talking to the inspector, seeking access to employer exposure and injury records, raising a safety or health issue with the employer, or any other workers' rights described above. Protection from retaliation means that an employer cannot punish workers by taking "adverse action", such as firing or laying off.
- If an employee has been retaliated against for using their rights, they must file a complaint with OSHA within 30 calendar days from the date the retaliatory decision has been both made and communicated to the employee (the worker). Following a complaint, OSHA will contact the complainant and conduct an interview to determine whether an investigation is necessary.
- If the evidence shows that the employee has been retaliated against for exercising safety and health rights, OSHA will ask the employer to restore that worker's job, earnings, and benefits. If the employer refuses, OSHA may take the employer to court.
- Employees may file a complaint with OSHA concerning a hazardous working condition at any time. However, an employee should not leave the worksite merely because he or she has filed a complaint. If the condition clearly presents a risk of death or serious physical harm, there is not sufficient time for OSHA to inspect, and, where possible, an employee has brought the condition to the attention of his or her employer, an employee may have a legal right to refuse to work in a situation in which you would be exposed to the hazard.

- If a worker, with no reasonable alternative, refuses in good faith to expose himself or herself to a dangerous condition, he or she would be protected from subsequent retaliation. The condition must be of such a nature that a reasonable person would conclude that there is a real danger of death or serious harm and that there is not enough time to contact OSHA and for OSHA to inspect. Where possible, the employee must have also sought from his employer, and been unable to obtain, a correction of the condition.
- Since passage of the OSH Act in 1970, Congress has expanded OSHA's whistleblower protection authority to protect workers from retaliation under federal law. These laws protect employees who report violations of various workplace safety, airline, commercial motor carrier, consumer product, environmental, financial reform, health care reform, nuclear, pipeline, public transportation agency, railroad, maritime and securities laws. Complaints must be reported to OSHA within set timeframes following the retaliatory action, as prescribed by each law.
- Administrators should note the following: OSHA offers cooperative programs under which businesses, labor groups and other organizations can work cooperatively with OSHA; the OSHA Strategic Partnerships (OSP) provide the opportunity for OSHA to partner with employers, workers, professional or trade associations, labor organizations, and/or other interested stakeholders; through the Alliance Program, OSHA works with groups to develop compliance assistance tools and resources to share with workers and employers, and educate workers and employers about their rights and responsibilities.

### ***The Pregnancy Discrimination Act of 1978***

- The Pregnancy Discrimination Act of 1978 Amends the Civil Rights Act of 1964 to specifically encompass pregnancy, childbirth, or related medical conditions within the prohibition against sex discrimination in employment, including discrimination with respect to fringe benefit plans.
- The Pregnancy Discrimination Act of 1978 requires where benefit costs are apportioned between employers and employees, that additional costs required by this Act be made in the same proportion

### ***Americans with Disabilities Act of 1990***

- The Americans with Disabilities Act of 1990 prohibits discrimination by a covered entity (any employer, employment agency, labor organization, or joint labor-management committee) against any qualified individual with a disability in job

application procedures, hiring or discharge, compensation, advancement, training, and other terms, conditions, and privileges of employment.

- Allows: actions that are job related and consistent with business necessity, if performance cannot be accomplished by reasonable accommodation; a requirement that an individual not pose a direct threat to the health or safety of other individuals in the workplace; and requirements that an individual be a member of and conform to the tenets of a religious entity employer.
- The Americans with Disabilities Act of 1990 makes the remedies set forth in specified provisions of the Civil Rights Act of 1964 available to the Equal Employment Opportunity Commission, the Attorney General, or any person alleging discrimination in violation of the Americans with Disabilities Act of 1990.

### ***Family and Medical Leave Act of 1993***

- Establishes certain requirements for unpaid family and medical leave for permanent employees.
- Makes employees eligible for such leave if they have been employed, by the employer from whom leave is sought, for at least: a total of 12 months; and 1,250 hours of service during the previous 12-month period. (excludes from such coverage: employees at worksites at which the employer employs less than 50 persons, if the total number of employees of that employer within 75 miles of that worksite is less than 50; and Federal officers and employees covered under title II of this Act.)
- Entitles employees to 12 workweeks of leave during any 12-month period because of: the birth of their child; the placement of a child for their adoption or foster care; their care of a child, spouse, or parent who has a serious health condition; or their own serious health condition which makes them unable to perform the functions of their position.
- Conditions such leave for the birth or placement of a child as follows: the entitlement ends 12 months after the birth or placement; and such leave may not be taken intermittently unless employee and employer agree otherwise.
- Allows intermittent leave for necessary medical treatment of an employee or family member. Allows the employer to require a temporary transfer to an equivalent alternative position that better accommodates such intermittent leave.
- Allows all leave under this title: to be taken on a reduced leave schedule, upon agreement with the employer; and to consist of unpaid leave, except under specified conditions when substitution of certain types of paid leave may be elected

or required. Does not require an employer to provide paid sick or medical leave in any situation in which the employer would not normally provide any such paid leave.

- Requires employees to: give at least 30 days' notice of the need for leave to which they are entitled under this Act, when foreseeable; and make a reasonable effort to schedule medical treatment or supervision so as not to disrupt unduly the employer's operations, subject to approval of the health care provider.
- Allows limitation of the dual aggregate leave entitlement to 12 weeks in any 12-month period, in the case of spouses employed by the same employer, if such leave is for the birth or placement of a child or for the care of a sick parent.
- Requires maintenance of employee health benefits during such leave.
- Prohibits interference with or discrimination against employees exercising rights under this title.
- Sets forth the investigative authority of the Secretary of Labor under this title.
- Provides for enforcement of this Act. Provides for administrative and civil actions. Makes an employer who violates this title's prohibitions against interference or discrimination liable for damages in the amount of: any wages, salary, employment benefits, or other compensation denied or lost; (where such compensation has not been denied or lost) any actual monetary losses, such as the cost of providing care; interest on such losses; and liquidated damages under certain conditions. Makes such employers also liable for appropriate equitable relief, including, without limitation, employment, reinstatement, and promotion. Sets forth provisions for attorney's fees, limitation of actions, and injunctions, other equitable relief, and the Solicitor of Labor's role in such litigation.
- Sets forth the effect of this Act on other laws and existing employment benefits.
- Provides that nothing in this Act shall be construed to discourage employers from adopting more generous leave policies.

### ***Genetic Information Nondiscrimination Act of 2008***

- The Genetic Information Nondiscrimination Act of 2008 prohibits, as an unlawful employment practice, an employer, employment agency, labor organization, or joint labor-management committee from discriminating against an employee, individual, or member because of genetic information, including: for an employer, by failing to hire or discharging an employee or otherwise discriminating against an employee with respect to the compensation, terms, conditions, or privileges of employment;

for an employment agency, by failing or refusing to refer an individual for employment; for a labor organization, by excluding or expelling a member from the organization; for an employment agency, labor organization, or joint labor-management committee, by causing or attempting to cause an employer to discriminate against a member in violation of this Act; or for an employer, labor organization, or joint labor-management committee, by discriminating against an individual in admission to, or employment in, any program established to provide apprenticeships or other training or retraining.

- The Genetic Information Nondiscrimination Act of 2008 prohibits, as an unlawful employment practice, an employer, employment agency, labor organization, or joint labor-management committee from limiting, segregating, or classifying employees, individuals, or members because of genetic information in any way that would deprive or tend to deprive such individuals of employment opportunities or otherwise adversely affect their status as employees.
- The Genetic Information Nondiscrimination Act of 2008 prohibits, as an unlawful employment practice, an employer, employment agency, labor organization, or joint labor-management committee from requesting, requiring, or purchasing an employee's genetic information, except for certain purposes, which include where: such information is requested or required to comply with certification requirements of family and medical leave laws; the information involved is to be used for genetic monitoring of the biological effects of toxic substances in the workplace; and the employer conducts DNA analysis for law enforcement purposes as a forensic laboratory or for purposes of human remains identification.
- The Genetic Information Nondiscrimination Act of 2008 requires an employer, employment agency, labor organization, or joint labor-management committee that possesses any genetic information about an employee or member to maintain such information in separate files and treat such information as a confidential medical record.
- The Genetic Information Nondiscrimination Act of 2008 prohibits an employer, employment agency, labor organization, or joint labor-management committee from disclosing such genetic information, except: to the employee or member upon request; to an occupational or other health researcher; in response to a court order; to a government official investigating compliance with this Act if the information is relevant to the investigation; in connection with the employee's compliance with the certification provisions of the Family and Medical Leave Act of 1993 or such requirements under state family and medical leave laws; or to a public health agency.

- Provides that if any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act shall not be affected

### ***Lilly Ledbetter Fair Pay Act of 2009***

- Amends the Civil Rights Act of 1964 to declare that an unlawful employment practice occurs when: a discriminatory compensation decision or other practice is adopted; an individual becomes subject to the decision or practice; or an individual is affected by application of the decision or practice, including each time wages, benefits, or other compensation is paid. Allows liability to accrue, and allows an aggrieved person to obtain relief, including recovery of back pay, for up to two years preceding the filing of the charge, where the unlawful employment practices that have occurred during the charge filing period are similar or related to practices that occurred outside the time for filing a charge. Applies the preceding provisions to claims of compensation discrimination under the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973.
- Amends the Age Discrimination in Employment Act of 1967 to declare that an unlawful practice occurs when a discriminatory compensation decision or other practice is adopted, when a person becomes subject to the decision or other practice, or when a person is affected by the decision or practice, including each time wages, benefits, or other compensation is paid.

### ***Employment Non-Discrimination Act of 2013***

- The Employment Non-Discrimination Act of 2013 prohibits covered entities (employers, employment agencies, labor organizations, or joint labor-management committees) from engaging in employment discrimination on the basis of an individual's actual or perceived sexual orientation or gender identity.
- The Employment Non-Discrimination Act of 2013 declares that it shall be unlawful for an employer, because of an individual's actual or perceived sexual orientation or gender identity, to: fail or refuse to hire, to discharge, or to otherwise discriminate with respect to the compensation, terms, conditions, or privileges of employment of such individual; or limit, segregate, or classify employees or applicants in any way that would deprive any individual of employment or adversely affect an individual's status as an employee. Prohibits employment agencies, labor organizations, and training programs from engaging in similar practices that would adversely affect individuals based on such actual or perceived orientation or identity.

- Specifies that such unlawful employment practices include actions based on the actual or perceived orientation or identity of a person with whom the individual associates.
- Prohibits certain employment actions from being considered unlawful with respect to volunteers who receive no compensation.
- Prohibits a covered entity from granting preferential treatment or implementing quotas on the basis of such actual or perceived orientation or identity.
- Limits the claims authorized to be brought under this Act to disparate treatment claims (thereby specifying that disparate impact claims are not provided for under this Act).
- Places the burden of proof on the complaining party to establish such an unlawful employment practice by demonstrating that sexual orientation or gender identity was a motivating factor for any employment practice, even though other factors also motivated the practice.
- The Employment Non-Discrimination Act of 2013 prohibits a covered entity from discriminating against an individual who: opposed such an unlawful employment practice; or made a charge, testified, assisted, or participated in an investigation, proceeding, or hearing under the Employment Non-Discrimination Act of 2013.
- Prohibits this Act from being construed to: prohibit an employer from requiring an employee to adhere to reasonable dress or grooming standards, or require the construction of new or additional facilities.
- Prohibits the Equal Employment Opportunity Commission (EEOC) and the Secretary of Labor from compelling collection or requiring production of statistics from covered entities on actual or perceived sexual orientation or gender identity pursuant to this Act.
- Provides for the administration and enforcement of this Act, including by giving the EEOC, Librarian of Congress, Attorney General (DOJ), and U.S. courts the same enforcement powers as they have under specified provisions of the Civil Rights Act of 1964, Government Employee Rights Act of 1991, Congressional Accountability Act of 1995, and other laws granting rights and protections to certain applicants and employees.
- Prohibits an individual who files claims alleging an unlawful employment practice under this Act in addition to alleging an unlawful employment practice because of

sex under the Civil Rights Act of 1964 from receiving double recovery under both Acts.

- Permits a decision maker (other than the Attorney General) in an action or administrative proceeding under this Act to allow the prevailing party (other than the EEOC or the United States) a reasonable attorney's fee (including expert fees) as part of the costs, to the same extent as is permitted under specified civil and employee rights laws. Requires the EEOC and the United States to be liable for costs to the same extent as a private person.
- Provides authority for amended employee notices to be posted in employee areas for purposes of this Act, but does not require the posting of a separate notice.
- Prohibits this Act from invalidating or limiting the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other federal, state, or political subdivision laws.

### ***Section 1: Summary***

Employees, independent of race, gender, and background have specific rights, which apply to the workplace. Employees' work-related rights are, typically, protected by law. If an employee feels or believes his or her work-related rights have been violated in any way he or she may file a formal grievance with his or her employer or with a relevant Federal government agency. With that said, it is often the responsibility of the employer to address and resolve employee grievances.

### ***Section 1: Key Concepts***

- Employees have specific work-related rights, which are protected by law.
- Federal laws/acts which protect employee rights include: the Occupational Safety and Health Act of 1970, the Pregnancy Discrimination Act of 1978, the Americans with Disabilities Act of 1990, the Family and Medical Leave Act of 1993, the Genetic Information Nondiscrimination Act of 2008, the Lilly Ledbetter Fair Pay Act of 2009, and the Employment Non-Discrimination Act of 2013.
- An employee may file a grievance with his or her employer or with a Federal government agency if he or she believes his or her work-related rights have been violated.
- It is, typically, the responsibility of the employer to address and resolve employee grievances.

## ***Section 1: Key Terms***

***Grievance (as it pertains to a professional setting)*** - a matter of concern regarding a potential violation of work-related rights, which is formally submitted, without fear of retaliation, and requires a formal response<sup>1,2</sup>

## ***Section 1: Personal Reflection Question***

What rights do employees have in the workplace?

## **Section 2: Establishing Employee Grievance Policies and Procedures**

It has been noted that employees have specific work-related rights, which are protected by law. It has also been noted that an employee may submit a grievance to his or her employer or to a relevant Federal government agency if he or she believes his or her work-related rights have been violated. That being the case, how can administrators ensure their health care organizations are meeting the related standards set forth by law and effectively resolving employee grievances? The straight forward answer to the aforementioned question is to establish organizational employee grievance policies and procedures. Employee grievance policies and procedures may refer to any formal documentation and/or established organizational means which may be used to communicate relevant information as well as address and resolve employee grievances.<sup>1,2</sup> To establish employee grievance policies and procedures, or even to update existing employee grievance policies and procedures, administrators should employ a strategy involving a multifaceted approach mainly consisting of the following essential elements or steps: planning, development, implementation, monitoring, and evaluation.

### ***Planning***

The first essential element or step to establishing and/or updating employee grievance policies and procedures is planning. When it relates to the establishment of employee grievance policies and procedures, the planning process can take many forms and include a variety of different parts. However, an effective planning process typically involves and includes vital components such: gathering information, conducting research, and forming a team of individuals dedicated to achieving a common and shared goal.

Information related to employee grievance policies and procedures may come from many different sources including colleagues and other health care professionals. When gathering information from colleagues and other health care professionals, individuals should utilize active listening. Active listening may refer to the process in which one individual gathers information from another individual by engaging in a style of two-way communication which fosters a clear and mutual understanding of information.<sup>3</sup> In other words, active listening is the process of listening with the intent to obtain meaning.<sup>3</sup> Principles of active listening include the following:

- **Individuals should give other individuals their full attention when they are speaking<sup>3</sup>** - when one individual gives another individual his or her full attention in a conversation he or she is more likely to obtain meaning. Additionally, it can help individuals avoid passive listening. Passive listening may refer to a style of communication characterized by limited focus, limited attention, and an overall lack of desire to obtain meaning.<sup>3</sup>
- **Individuals should make eye contact<sup>3</sup>** - eye contact can let individuals know they are being listened to. Eye contact can also foster trust and encourage individuals to open up and fully articulate what they want to say.
- **Individuals should provide other individuals with an opportunity to say what they would like to express<sup>3</sup>** - limiting interruptions and distractions when individuals are speaking and allowing for periods of silence can further open up a conversation to allow for a greater expression of ideas.
- **Individuals should respond to what is being said<sup>3</sup>** - from time to time, individuals should respond to what other individuals are saying. Repeating what an individual says or paraphrasing individuals' words can reinforce that they are truly being listened to, which can make them more likely to further engage in conversation.
- **Individuals should ask open-ended questions when applicable<sup>3</sup>** - at times, it may be advantageous to avoid yes and no questions and focus on how, what, where, and why questions. Yes and no questions can limit the expression of ideas, while open ended questions can expand the expression of ideas. Examples of open-ended questions include the following: why do you think that is a good idea, how will this policy improve upon the process of resolving employee grievances, what is the overall benefit of the procedure in question?
- **Individuals should clarify what is said when applicable<sup>3</sup>** - if there is any confusion in a conversation, the points of confusion should be cleared up to avoid potential complications when moving forward.

- **Individuals should communicate the sentiment of collaboration**<sup>3</sup> - communicating the sentiment of collaboration can help others feel invested in the conversation or project/process. When others feel they are invested or part of the process they may be more apt to help, express ideas, and follow-up to ensure desired goals are achieved.

In addition to gathering information, conducting research is another vital component of the planning process. When conducting research, administrators may find it prudent to review related laws as well as other health care facilities' existing employee grievance policies and procedures. Other health care facilities' employee grievance policies and procedures may be used as a foundation on which new and improved employee grievance policies and procedures may be built upon, i.e., other health care facilities' employee grievance policies and procedures may be used as a guide.

Finally, the last vital component of the planning process, which may take place at any time during the planning process, is to form a team of individuals dedicated to achieving a common and shared goal. It may be advantageous for administrators to form a collaborative team when working to establish employee grievance policies and procedures (in this case, a collaborative team may refer to a group of individuals who share common goals and work together to achieve predetermined or specific objectives/results<sup>4</sup>). It may be advantageous for administrators to form a collaborative team when working to establish employee grievance policies and procedures because a collaborative team may serve as a means to harness the best or the most useful ideas, perspectives, experience, and expertise found among the individuals involved with their health care organization. In other words, a collaborative team may be a means for administrators to bring together the most qualified, intelligent, and dedicated individuals their health care facility has to offer in order to produce the most optimal employee grievance policies and procedures for their specific health care organization. That being the case, it is important to recognize the key characteristics of an effective collaborative team. Key characteristics of a collaborative team may be found below:

- **Team work** - the ability to work in a team atmosphere is paramount for a collaborative team. Thus, administrators should be sure to include individuals on their collaborative team who display a willingness to work with others.
- **Communication** - another essential aspect to working on a collaborative team is the ability to communicate. When forming a collaborative team, administrators should include individuals who are open to communicating with others in a manner which is conducive to obtaining meaning.

- **Leadership** - leadership is another key characteristic of an effective collaborative team. Therefore, administrators should be sure to provide an element of leadership to their collaborative team in order to keep the process of establishing employee grievance policies and procedures organized, professional, and progressing at a desired pace.
- **Trust** - trust may not initially come to mind when considering the key characteristics of an effective collaborative team, however trust is vital to the success of a collaborative team. As a result, when forming a collaborative team, administrators should include individuals who elicit trust from others, i.e. individuals who are reliable, capable, well organized, professional, objective, fair-minded, and respected.
- **Dedication** - lastly, individuals working on a collaborative team should be dedicated to the project at hand and to achieving optimal results. The process of establishing or updating employee grievance policies and procedures could be relatively labor intensive, thus members of an administrator's collaborative team should be dedicated to the process to ensure it is completed in a timely manner and the results of the process meet or exceed all expectations.

## **Development**

The next essential element or step to establishing and/or updating employee grievance policies and procedures is the development of the employee grievance policies and procedures. Much like the planning phase of the process, the developmental phase may include a variety of different aspects. With that said, the bulk of the developmental phase will involve the actual writing, or updating, of the employee grievance policies and procedures. An example, of an employee grievance policy/procedure may be found in Figure 1. The example highlights specific, sections as well as details often found in organizational employee grievance policies and procedures. Administrators may use the example employee grievance policy/procedure found in Figure 1 to identify sections and/or details they may want to include in their own specific organizational employee grievance policies and procedures.

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## **FIGURE 1: EXAMPLE EMPLOYEE GRIEVANCE POLICY/PROCEDURE<sup>5</sup>**

### ***Employee Grievance Policy/Procedure***

#### ***Background***

This document clarifies roles and responsibilities for individuals when addressing employee grievances. It provides guidance to employees for filing a formal grievance. It more specifically identifies matters which are grievable and non-grievable.

### ***Purpose***

This document sets forth an administrative employee grievance procedure.

### ***Coverage and Exclusions***

- Coverage - this document may apply to employees of the health care facility.
- Exclusions - this document may not apply to employees contracted by the health care facility.

### ***Grievable and Non-grievable Matters***

- Grievable Matters
  - Except as discussed under Non-grievable Matters, the grievance system is available to resolve matters of concern or dissatisfaction relating to the employment of an individual and under the control of organizational management. This includes any matter in which an employee alleges that coercion, reprisal, or retaliation has occurred for using the grievance system.
- Non-grievable Matters
  - A dispute over a matter for which an employee has an entitlement to file an appeal, grievance, or formal challenge in some other forum.
  - A performance progress review, documentation of performance, the methods used to appraise performance during the appraisal period (including the methods used to conduct and document a performance progress review), as well as any tentative or preliminary appraisal.
  - Complaints about failure to receive a noncompetitive promotion or non-selection for competitive promotion from a group of properly ranked and certified candidates under the merit promotion program. However, when the complaint alleges impropriety in the competitive rating, ranking, certification, or selection process, the complaint is covered (i.e., is not excluded).
  - Failure to receive a cash, time off, or honorary award.
  - Matters involving allegations of discrimination, when a discrimination complaint has been filed concerning the same matter or matters. This does not

preclude an employee from filing a grievance and seeking pre-complaint equal employment opportunity counseling at the same time. However, at such time that a discrimination complaint is filed, the grievance will be cancelled and the matter will be reviewed under applicable discrimination complaint procedures.

- An action which terminates a temporary or term promotion and which returns the employee to the position from which the employee was temporarily promoted or to a similar position at the same grade where the employee was informed in advance that the promotion is only temporary.
- Failure to grant a recruitment, retention, or relocation bonus.
- Separation or termination of an employee for unsatisfactory performance or misconduct during a probationary or trial period.
- The return of an employee from an initial appointment as a supervisor or manager to a non-supervisory or non-managerial position for failure to complete the supervisor or managerial probationary period satisfactorily.

### ***Definitions***

- Grievance - a matter of concern or dissatisfaction presented by an employee for which personal relief is requested and could be granted. Personal relief must constitute action concerning the employee presenting the grievance and cannot be an action concerning or against another employee.
- Informal Grievance - a matter of concern or dissatisfaction presented by an employee at the first stage of the grievance process.
- Formal Grievance - a matter of concern or dissatisfaction presented by an employee in writing at the final stage of the grievance process.
- Stage One Official - the first official within the organization with authority over the matter at issue in the grievance.
- Stage Two Official - the official with delegated authority to issue the formal grievance decision.
- Discrimination - discrimination means illegal discrimination because of race, color, religion, sex, national origin, physical or mental handicap, or age when the complainant is 40 years of age or over.

### ***Responsibilities***

Administration and Management as well as the Office of Human Resources are responsible for:

- Updating and maintaining this policy.
- Ensuring that all grievances presented get a thorough and meaningful review, and that employees who file grievances receive a final written decision that fully explains whether the relief requested will be granted or not and the reasons for that decision.
- Ensuring that formal grievances are processed in accordance with this instruction and any applicable local procedures.
- Making available copies of this instruction and any local grievance procedures to all employees to whom human resources services are provided.
- Advising employees of the procedures for filing a grievance and their rights and responsibilities in doing so.
- Designating a representative in writing when a third party representative is desired.
- Making final grievance decisions.

### ***General Provisions***

Employees will be authorized a reasonable amount of work time to present a grievance and to prepare that portion of the grievance which the employee could not normally be expected to prepare outside of his or her regular work hours.

A grievance may be rejected, either in whole or in part, as appropriate, at any stage by a grievance official when the grievance:

- Does not specifically state that it is a grievance presentation in the required manner.
- Does not furnish sufficient detail to identify clearly the matter of concern or dissatisfaction at issue.
- Is not timely.

A grievance may be cancelled, either in whole or in part, as appropriate; by the employee upon written notification to the appropriate grievance official (the written notification must be made a part of the grievance file). Also, a grievance may be

cancelled by the appropriate grievance official (i.e., depending upon the stage at which the grievance is being reviewed).

### ***Informal Resolution***

This process is available to help resolve disputes quickly at the earliest possible stage. An alternate dispute resolution process is a voluntary program that uses mediation to provide an opportunity to be heard and to facilitate resolution of a dispute in a manner satisfactory to all involved. Any employee, supervisor, or manager can request mediation if they face an issue or concern that needs to be resolved. Participation in an alternate dispute resolution process is voluntary and confidential. This process should be mutually agreed upon prior to its use.

### ***Procedures***

- The administrative grievance procedures consist of an informal procedure (Stage One) and a formal procedure (Stage Two) that include fact-finding when appropriate. Exhibits A. and B. contain sample formats that can be used in presenting a grievance or issuing a grievance decision.
- Informal Procedure (Stage One)
  - At any time during the informal procedure, the grievance may be resolved either by a written decision that grants in its entirety the personal relief requested by the grievant or by a written agreement that is signed by the grievant and the grievance official and made part of the record.
  - The informal procedure applies to all grievances, except that grievances about non-appealable adverse actions, non-appealable separations, and reassignments all begin at the formal procedure (Stage Two).
  - Presentation of an informal grievance - the grievant must present the grievance in writing to the Stage One Official and provide a copy of the written grievance to his or her immediate supervisor (when the Stage One Official is not the employee's immediate supervisor). There is no entitlement to an oral grievance presentation, unless otherwise mutually agreed upon by the Stage One Official and at the grievant request. Oral grievance presentations must be followed up in writing and comply with the prescribed time frame below.
  - The Stage One Official is the first official within the organization who has authority over the matter at issue. This is usually the official who made the

decision or committed the act or omission about which the employee is dissatisfied.

- To distinguish mere inquiries or correspondence from grievances, the grievant must specifically state in the written grievance that he or she is making a Stage One grievance submission under this instruction. The written grievance must also furnish sufficient detail to identify clearly the matter at issue, explain the basis for the grievance, and specify the personal relief (i.e., a specific remedy directly benefiting the grievant) requested. Failure to state personal relief that is viable will be grounds for rejecting the grievance. The grievance should contain all available evidence, documentation, and argument to support the grievance and to justify the personal relief requested.
- Time Limits - the Stage One presentation must be submitted within 30 calendar days after the act or occurrence (or the date the employee became aware of the act or occurrence) that caused the employee to be aggrieved. Any of the requirements regarding either the content or the time limit for a Stage One submission may be waived at the discretion of the Stage One Official for good cause.
- Decision: As soon as possible, but no later than 15 calendar days after receipt of the written grievance, the Stage One Official must inform the employee in writing of the decision and the reasons therefore. This time limit may be extended for good cause, provided the grievance official advises the grievant that the decision will be delayed and the expected date of the decision.
- Failure to Issue Timely Decision - if the Stage One Official fails to issue a decision within the applicable time limits, the grievant may, at his or her option, proceed directly to Stage Two within 15 calendar days of the expiration of the time limit.
- Formal Procedure (Stage Two)
  - Presentation of a formal grievance - within 15 calendar days after receipt of the Stage One decision or the expiration of the Stage One time limits or within 15 calendar days after the effective date of a final decision of a suspension, separation, or reassignment, all of which begin at the formal stage, the grievant must present his or her grievance to the Stage Two Official in the same manner as in the Stage One process and provide a copy of the written grievance to his or her immediate supervisor, when the grievance begins at the formal stage. The employee must specifically state in the written grievance presentation that he or she is making a formal (Stage Two) grievance

presentation. There is no entitlement to an oral grievance presentation, unless otherwise mutually agreed upon by the Stage Two Official and at the grievant request. Oral grievance presentations must be followed up in writing and comply with the prescribed time frames. The presentation must furnish sufficient detail to identify clearly the matter at issue, explain the basis for the grievance, specify the personal relief requested by the grievant, and should contain all available evidence, documentation, and argument to support the grievance and to justify the personal relief requested. The presentation must include a copy of the Stage One grievance presentation (if applicable) and a copy of the Stage One decision (or state that one was not issued) and should clearly state the reasons for disagreeing with the Stage One decision, if one was issued.

- Resolution by Written Agreement - at any time during the formal procedure, the grievance may be resolved either by a written decision that grants in its entirety the personal relief requested by the grievant, or by a written agreement.
- Decision Without Fact-finding - when there are no substantive facts in dispute, the Stage Two Official may, at his or her option, proceed to a decision based on the record at hand. A decision without fact-finding shall (after consultation with the Operating Human Resources Organization): be in writing; state that, because there are no substantive facts in dispute, fact-finding has not been requested; and include a summary of findings and the reason(s) for the decision.
- Request for Fact-finding - when the Stage Two Official is unable to reach a decision based on the record at hand; he or she has the option of requesting fact-finding and designating an employee to serve as Fact-finder. The Fact-finder may be any organizational employee who was not involved in the matter at issue in the grievance and who is at an appropriate grade level. Normally, the Fact-finder will be another employee who is part of the Stage Two Official's organization who is impartial and who is at the same grade level as the Stage One Official or higher. The Fact-finder must not occupy a position subordinate to any official who recommended, advised, influenced, or made a decision on, or otherwise is or was involved or has a personal interest in, the matter at issue in the grievance. The designation of an individual as grievance Fact-finder will be made in writing and a copy will be furnished to the grievant at the time of the designation.

- **Fact-finding Inquiry** - the Stage Two Official or his or her designee shall be responsible for making available space and any other administrative services required that the Fact-finder may need to conduct an appropriate inquiry. At the discretion of the Fact-finder, the inquiry may consist of a documentary review, personal interviews, a group meeting, or any combination thereof. Fact-finders are authorized to take written, signed statements from individuals who have information pertinent to the grievance. Because the grievance procedure is purely an administrative process without any further third party review, such statements need not be sworn or notarized. A simple signature of the individual making the statement will suffice. The Fact-finder will keep the grievance file intact as received from the Stage Two Official. The Fact-finder will only add to the file, not delete from it or rearrange it. When the Fact-finder has completed the inquiry, he or she shall make all documents in the grievance file available to both the grievant and the Stage One Official for review and written comment, unless they waive opportunity for review and comment.
- **Report of Findings and Recommendations** - the Fact-finder will normally issue the report to the Stage Two Official as soon as possible but no later than 60 calendar days after the receipt of the grievance for fact-finding. The report is advisory and any recommendations made are not binding on the Stage Two Official. The Fact-finder shall provide the grievant with a copy of the report at the same time it is provided to the Stage Two Official.
- **Decision After Examiner's Report** - the Stage Two Official shall (after coordination with the Operating Human Resources Office) issue a written decision to the grievant as soon as possible, but no later than 30 calendar days after receipt of the Fact-finder's report and the final grievance file. The decision must include a report of findings and the reasons for the decision.

### ***Reporting and Accountability***

Administration and Management as well as the Office of Human Resources are responsible for:

- Establishing a grievance file at the time the first decision is issued.
- Ensuring that copies of all relevant materials are added to the file as the processing of the grievance continues.
- Ensuring that the employee has the right to submit relevant materials for inclusion in the official grievance file at both stages of the grievance process.

- Ensuring compliance with all provisions of this instruction in the processing of administrative grievances.
- Retaining the final grievance case file after the Stage Two decision has been rendered or the grievance has otherwise been closed.
- Preparing any necessary reports regarding the administrative grievance system.

In addition to developing/writing the actual employee grievance policies and procedures, administrators may want to consider developing specific formats that extend to all formal employee grievances and response documentation to help maintain standardization. An example of a formal employee grievance submission format may be found in Figure 2. An example of a formal response format may be found in Figure 3. Administrators should note that if such formatting is developed and required for official review of employee grievances, examples of both the employee grievance submission format and response format should be included within, or added on to, employee grievance policies and procedures.

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## **Figure 2: Example Employee Grievance Submission Format<sup>5</sup>**

### ***Employee Grievance Submission Format***

**Date:** The employee should indicate the date the grievance was submitted.

**From:** The employee should indicate who the grievance is from (i.e., the employee should include his or her name).

**Subject:** The employee should indicate the subject of the grievance submission.

**To:** The employee should address a grievance to the first official or individual within the organization with authority over the matter at issue. If the employee does not know who that official is, the employee should ask his or her immediate supervisor or consult with the Human Resources Office.

**Document body:** The employee should state his or her grievance in the following manner:

This is a formal grievance under the (Insert the Name of Organization) Employee Grievance System.

The matter(s) that aggrieve(s) me occurred on [give date(s)] and is/are described in detail as follows: [Furnish sufficient detail to clearly identify the matter at issue. Fully explain the basis for your grievance and provide all available evidence, documentation, and rationale to support your grievance and the relief that you seek.]

The personal relief I seek is: [Specify clearly. If it is already stated or implied above, restate it here]. [NOTE: "Personal relief" means a specific remedy directly benefiting you and not an action concerning or against someone else.]

[Signature]

[Attachments: (It is preferable to identify any attachments.)]

[NOTE: It is preferable to make personal delivery when practicable. When mailing is used, the postmark usually determines the date of filing of the grievance.]

[NOTE: All employee grievance submissions must follow the above format. ]

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### **Figure 3: Example Formal Grievance Response/Decision Format<sup>5</sup>**

#### ***Formal Grievance Response/Decision Format***

**From:** The individual responsible for responding to the employee grievance should indicate who the response is from (i.e., the individual should include his or her name).

**Subject:** The individual responsible for responding to the employee grievance should indicate the subject of the response in the following manner:

Your Grievance related to [indicate the nature of the grievance].

**To:** The individual responsible for responding to the employee grievance should address the response to the individual employee who submitted the grievance.

**Document body:** The individual responsible for responding to the employee grievance should structure the formal grievance response in the following manner:

My decision is: [State the decision and include a summary of findings and the reasons for the decision.]

[Signature]

[NOTES:

- If the individual responsible for responding to the employee grievance has no authority over the matter(s) at issue, he or she should state that he or she has forwarded the grievance to the appropriate official (give name and address).
- If the decision is to reject or cancel the grievance, state specifically the reasons why.
- If the decision is to grant the personal relief sought, be specific in describing it to avoid future disputes as to its meaning or implementation.
- If the decision is to not grant the personal relief sought, include a summary of findings and reasons for the decision on the matter(s) at issue.
- If the grievance process needs to progress, state how the employee may pursue the matter(s) at the next level.]

[NOTE: All employee grievance responses must follow the above format. ]

## ***Implementation***

Once the development of the employee grievance policies and procedures is completed, the implementation process can begin. Much like with the previously highlighted essential elements or steps, the implementation process involves various components. With that said, arguably the two most important components of the implementation process include integration and education.

The integration component of the implementation process involves the act of merging or adding the newly developed employee grievance policies and procedures to existing organizational policies and procedures, e.g., adding the newly developed employee grievance policies and procedures to organizational documentation, electronic versions of organizational policies and procedures, and employee handbooks. By adding the newly developed employee grievance policies and procedures to existing organizational policies and procedures administrators and health care organizations can formalize the new/updated policies and procedures as

well as provide employees with access to the vital information they provide, which can be extremely helpful when proceeding with employee education.

It has been argued that employee education, the second of the two most important components of the implementation process, is absolutely necessary when establishing new or updated employee grievance policies and procedures. The process of employee education can take many different forms including: lectures, courses, and seminars. That being said, no matter the form of employee education, administrators should ensure employees receive direct information regarding the newly developed employee grievance policies and procedures, including how to submit a formal grievance and, for those employees tasked with reviewing employee grievances, how to formally respond to employee grievances.

In addition to including direct details regarding newly developed employee grievance policies and procedures, administrators may also consider including information regarding grievance resolution strategies within employee education modules. In this case, the term grievance resolution strategy may refer to any technique, method, or strategy that may be used to deescalate and resolve a grievance. Administrators should note that an employee grievance may be resolved at any point in the grievance resolution process, including the beginning stages of the grievance resolution process and before a formal grievance is even submitted. Thus, by including information regarding grievance resolution strategies within employee education modules administrators can promote grievance resolution while providing employees with insight on how to deescalate and resolve grievances. Grievance resolution strategies may be found below. The following information regarding grievance resolution strategies was derived from materials provided by the National Center for Assisted Living (NCAL).<sup>6</sup>

### ***Grievance Resolution Strategies***

- ***Ask questions*** - if a grievance or a related incident occurs, begin to ask questions regarding the grievance to gather an understanding or insight into the other individual's mind set and to obtain additional information about the grievance at hand. Also, asking questions may be used as a means to de-escalate a grievance. By asking questions, it may provide the individuals involved in the grievance a moment to stop and think about what is truly going on. In turn, pausing to think may relieve tension and ultimately lead to grievance resolution.
- ***Relocation*** - if a grievance or a related incident occurs in a public area, suggest moving any conversations about the grievance at hand to a private location. Doing so can help avoid public disturbance. Also, by moving the conversation to a private location it may help de-escalate a grievance. As individuals move to a private

location, such as an office, it may give them time to consider the nature of the grievance and other individuals' perspectives, potentially leading to a relief in tension and, ultimately, to grievance resolution. With that said, to move a grievance discussion to a private location, individuals should wait for an opportunity in the conversation to verbally suggest moving. When verbally suggesting moving the grievance discussion to a private location, individuals should use a non-threatening tone and verbiage that is conducive to constructive grievance resolution, e.g., "I want to fully understand your concern. Let's move to [suggest a more private area] as I'd like to hear more."

- ***Avoid specific types of body language*** - avoid body language that may be interpreted as aggressive or intimidating. Aggressive or intimidating body language may lead to unintentional grievance escalation, e.g., if one individual is presenting aggressive or intimidating body language it may cause other individuals to become threatened, which in turn may lead to grievance escalation. On the other hand, avoiding the use of aggressive or intimidating body language may help others relax, which in turn may lead to grievance de-escalation and, ultimately, to grievance resolution. Thus, individuals should be conscious of their body language while engaging in grievance-related discussions. Examples of body language that may be interpreted as aggressive or intimidating may include: looming over another individual, waving arms in the air, making a fist(s), waving a hand and/or a fist in another individual's face, stern finger pointing, raising up on one's toes, foot stopping, hand clapping, stern facial expressions, and quickly moving forward towards an individual while speaking.
- ***Be polite and professional*** - it may sound obvious to be polite and professional while speaking to another individual or colleague, but the simple truth of the matter is that many individuals are not often polite or professional when speaking to colleagues in the workplace, especially during a grievance or a related incident. Being polite and professional during a grievance-related discussion can help prevent discussions from spiraling into a personal debate or an all out argument. Essentially, polite and professional discussions tend to lend themselves to grievance de-escalation and grievance resolution, while non-polite and non-professional discussions tend to lend themselves to grievance escalation and grievance irresolution. Thus, keeping the grievance-related discussion polite or professional and extending a level of general respect to other individuals can help avoid grievances from reaching a point where resolution cannot be found or achieved.
- ***Walk away from a grievance-related discussion*** - when all else fails, it may be best to simply walk away from a grievance-related discussion. The phrase "cooler heads prevail" applies to this particular strategy. At times grievance-related

discussions may lead individuals to reach the point of absolute frustration or anger. At those times, when the point of absolute frustration or anger is reached, it may be best to walk away from a grievance-related discussion before the grievance escalates to a point where it cannot be resolved or before the grievance-related discussion leads individuals to a point where they are so emotionally unbalanced or enraged the overall situation becomes dangerous. Therefore, at times when grievance-related discussions are escalating to the point where resolution cannot be reached or to a point where individuals become so emotionally unbalanced or enraged the overall situation becomes dangerous, individuals should consider removing themselves from the grievance-related discussion in order to de-escalate the grievance-related discussion and to, ultimately, seek grievance resolution at a later date when all parties involved are calmer and ready to potentially reach grievance resolution.

### ***Monitoring and Evaluation***

The last essential elements or steps to establishing and/or updating employee grievance policies and procedures are monitoring and evaluation. The monitoring and evaluation of employee grievance policies and procedures begins as soon as the implementation process ends. The core of monitoring and evaluating employee grievance policies and procedures lies in determining if the newly developed employee grievance policies and procedures are effective. Simply put, effective employee grievance policies and procedures help resolve employee grievances in a timely manner, while ineffective employee grievance policies and procedures stunt the grievance resolution process to the point where grievance are not resolved in a timely manner or not resolved at all. If administrators determine the newly developed employee grievance policies and procedures are not effective, through monitoring and evaluation, then said policies and procedures should be reviewed and revised. If the newly developed employee grievance policies and procedures are deemed effective, through monitoring and evaluation, then administrators should continue to monitor and evaluate the newly developed employee grievance policies and procedures to ensure they resolve grievances in a manner consistent with recommended models for resolving grievances. In this particular case, the term model for resolving grievances may refer to any such model which outlines the process or steps health care organization should take when resolving grievances in order to formally resolve grievances in a timely manner while optimizing results.<sup>6</sup> That being said, one such model for resolving grievances may be found below. The model found below is based on a model recommended by the NCAL. The related information found below was derived from materials provided by the NCAL.<sup>6</sup>

## ***Model for Resolving Grievances***

The NCAL-based model for resolving grievances recommends that health care facilities follow steps similar to the ones found below when formally seeking employee grievance resolution. It has been recommended that administrators monitor their health care facility's employee grievance resolution process to ensure it is proceeding in a fashion similar to the steps found below. It has also been recommended that administrators should evaluate their health care facility's employee grievance resolution process, by examining the results of the process as well as employees' feedback regarding the process, to ensure it is leading towards employee grievance resolution and desired results. By monitoring and evaluating the employee grievance resolution process, over time, administrators may be able to further determine the effectiveness of their health care organization's employee grievance policies and procedures.

***Step 1: Encourage employees to share concerns and to seek grievance resolution*** - administrators should ensure that all health care facility staff and management encourage employees to share their concerns and to seek grievance resolution. Essentially, the first step towards resolving employee grievances begins well before a formal employee grievance is even submitted. The NCAL points out that it is far better to have issues addressed early on than to wait for unexpressed concerns and grievances to balloon into problems that may require state, federal, or attorney intervention. In essence, the first step to resolving employee grievances is to make sure existing employee grievance policies and procedures help establish a professional culture where the voicing of employee concerns and grievances is welcomed by the health care organization and resolved quickly to avoid grievance escalation.

Regarding Step 1, the NCAL also points out that it is important for administrators to recognize that many employees do not take their concerns or grievances to facility management for fear of retaliation against their employment. The fear of retaliation against employment can leave employees helpless in addressing their concerns. Additionally, it can lead to an unnecessarily tense work atmosphere and, most concerning, unresolved grievances in the work place, which could potentially impact patient care. Thus, administrators should also ensure the professional culture established by existing employee grievance policies and procedures is one that does not promote retaliation against any employee who may voice a concern and/or submit a formal grievance.

Administrators should note that one of the best methods to promote a professional culture within their health care organization which fosters employee grievance resolution, without fear of retaliation, is to actively engage employees and their

concerns and/or grievances. To do so, administrators and management should openly seek feedback from employees as well as initiate discussions with employees centered around their concerns, grievances, and methods to resolve any issues that may be present within the health care organization. By actively engaging employees and by, ultimately, prompting a professional culture centered around grievance resolution, without fear of retaliation, administrators can work towards ensuring employee grievance policies and procedures maintain their effectiveness within their health care organization.

**Step 2: Designate an employee(s) to head or manage the grievance resolution process** - every health care organization should have a designated employee(s) to head/manage the process of resolving formal employee grievances. Typically, the designated employee heads/manages the grievance resolution process from beginning to end, i.e., the designated employee handles the grievance resolution process from the time a formal employee grievance is submitted until the time the formal employee grievance is officially resolved. The designated employee may also serve as a contact individual for the employee who submitted the formal employee grievance. Establishing a contact individual for employees during the grievance resolution process can help foster effective communication, which is often essential to the grievance resolution process.

It has well been established that effective communication is necessary in the workplace, especially in the health care setting. Effective communication may refer to the adequate transmission of information or messages between two or more individuals.<sup>7</sup> In the workplace, effective communication occurs when messages are exchanged between two or more individuals and the intended meaning of those messages is obtained and understood by all individuals involved in the exchange. As previously alluded to, effective communication can be valuable in all facets of health care, including resolving employee grievances. In the context of the employee grievance resolution process, effective communication can help employees understand the grievance resolution process, express ideas, thoughts and concerns as well as avoid confusion. In essence, effective communication can prevent grievance escalation and help achieve grievance resolution by keeping a free flowing channel of information open between employees and health care organizations. With that in mind, additional information regarding communication may be found below.

- Communication has been described as a linear process, where a message passes from a sender through a medium to a receiver.<sup>8</sup> Communication can also be seen as a process that occurs between two or more people and where the aim is to share and exchange information in order to solve problems and sometimes to explore new ways of working.<sup>8</sup>

- A communication process is often more than merely a way of conveying information; it includes a series of complex, creative processes where the content is constructed and interpreted through interaction between people in the workplace.<sup>8</sup>
- An open communication climate is characterized by a dialogue that requires unrestricted, honest and mutual interaction for people to understand each other better, to promote tolerance and to minimize conflicts.<sup>8</sup>
- An open communication climate is essential to achieve a healthy work environment and it can therefore be regarded as health-promoting as it strengthens conditions for the employee to exert influence and become involved.<sup>8</sup>
- In organizations, communication flows vertically and horizontally in the hierarchy or it is free-flowing, with all the members of the organization communicating with each other.<sup>8</sup> An upward communication flow is the process of conveying information from the lower levels to the upper levels in the organization.<sup>8</sup> This gives the employees the opportunity to speak out and provide critical feedback that could be important in the decision-making process.<sup>8</sup>
- Positive information is more likely to flow upwards than negative information, which could result in potential problems at lower levels in the organization.<sup>8</sup> Therefore, administrators should make attempts to open up communication lines with employees to obtain both positive and negative feedback.
- Miscommunication may refer to the inadequate transmission of information or messages between two or more individuals.<sup>7</sup> When miscommunication occurs between individuals, intended meaning may be lost.
- Miscommunication can be problematic in the workplace. Thus, individuals should work to prevent miscommunication whenever possible.
- Individuals may prevent miscommunication by:<sup>3,7</sup>
  - removing physical barriers when communicating with other individuals
  - maintaining eye contact
  - remaining professional
  - allowing for a free flow of information between individuals
  - engaging in active listening
  - clarifying points of confusion

- asking questions
- maintaining emotional stability
- allowing others to speak
- limiting interruptions and distractions

**Step 3: Acknowledge the receipt of a formal employee grievance** - if a formal employee grievance is submitted, the health care organization should acknowledge, in some fashion, that the formal employee grievance was received. Doing so can inform the employee, who submitted the formal employee grievance, that the formal employee grievance resolution process has been initiated. Additionally, it can indirectly or directly inform the employee that his or her formal employee grievance, in some way, has been heard. The simple truth of the matter is, that when individuals have a concern or grievance they want to be heard by those in a position to resolve or elevate the concern or grievance. By letting the employee know his or her formal employee grievance was received, it can let the employee know he or she is being heard by those who can work to resolve the grievance. Furthermore, acknowledging the receipt of a formal employee grievance can potentially help avoid or prevent grievance escalation. Often, when individuals feel like their concerns or grievances are not listened to or heard, they escalate the process of voicing their concerns or grievances until they are heard. When individuals escalate the process of voicing their concerns or grievances until they are heard, negative results can occur such as additional grievances, disruptions, disturbances, and intense arguments, all of which should be avoided in the health care setting due to their potential to negatively impact patient care. Thus, by acknowledging the receipt of a formal employee grievance, health care organizations can let their employees know they are being heard and potentially avoid grievance escalation.

**Step 4: Gather information** - once the receipt of a formal employee grievance is acknowledged, those responsible for managing the employee grievance resolution process should begin gathering relevant information. Information regarding a grievance may come from many different sources including: the employees involved in the grievance, other employees not directly involved in the grievance, additional witnesses, organizations' policies as well as state and federal laws. With that said, administrators should note that objectivity is necessary when gathering information. Objectivity may refer to the process of obtaining meaning or information that is true outside of an individual's bias and/or opinion.<sup>9</sup> During the process of gathering information, individuals should remain unbiased until all information related to the grievance is obtained. By remaining objective individuals may be more likely to

uncover the true root issue(s) behind a grievance, which may, ultimately, prove invaluable during the final grievance decision process.

**Step 5: Document the process of employee grievance resolution** - the employee grievance resolution process should be documented, i.e., the formal grievance, any employee statements, any information relating to grievance resolution or the grievance decision as well as the health care organization's formal decision regarding a submitted grievance should be officially documented. Documentation can provide information to employees regarding the grievance resolution process and the health care organization's formal decision. Documentation can also prove to be valuable if any state, federal, or attorney intervention, regarding a grievance, occurs.

**Step 6: Formulate a decision** - once all relevant information has been gathered and documented, a formal decision regarding an employee grievance must, eventually, be made. Administrators should note that formal decisions regarding an employee grievance must be made within the designated time line specified in their organization's employee grievance policies and procedures, e.g., if an organization's employee grievance policies and procedures specify that an official decision regarding an employee grievance must be reached 15 - 30 days after the formal submission of the employee grievance then the decision should be reached within the aforementioned time period.

**Step 7: Follow up with the employee(s) involved in a grievance** - once an organization reaches an official decision regarding a grievance, the organization should formally follow up with the employee who submitted the grievance and any employees involved in the grievance, i.e., an organization should provide the employee(s) involved in a grievance with documentation, consisting of a format similar to the one highlighted in Figure 3. Administrators should note that the employee grievance resolution process may be concluded after the employee(s) involved in a grievance receive documentation, consisting of a format similar to the one highlighted in Figure 3. Furthermore, administrators should note that all of the previously highlighted steps, including Step 7, may be customized to fit the needs of their specific health care organization.

## **Section 2: Summary**

Employees have specific work-related rights protected by law. An employee may submit a grievance to his or her employer or to a relevant Federal government agency if he or she believes his or her work-related rights have been violated. That being the case, health care organizations should have established employee grievance policies and procedures in place to help manage employee grievances. To establish employee grievance policies and procedures, or even to update existing employee grievance

policies and procedures, health care administrators should employ a strategy involving a multifaceted approach mainly consisting of the following essential elements or steps: planning, development, implementation, monitoring, and evaluation.

The first essential element or step to establishing and/or updating employee grievance policies and procedures is planning. When it relates to the establishment of employee grievance policies and procedures, the planning process can take many forms and include a variety of different features - however, an effective planning process typically involves and includes vital components such: gathering information, conducting research, and forming a team of individuals dedicated to achieving a common and shared goal.

The next essential element or step to establishing and/or updating employee grievance policies and procedures is the development of the employee grievance policies and procedures. Much like the planning phase of the process, the developmental phase may include a variety of different parts. However, the bulk of the developmental phase will involve the actual writing, or updating, of the employee grievance policies and procedures.

Once the development of the employee grievance policies and procedures is completed, the implementation process can begin. Much like with the previously highlighted essential elements or steps, the implementation process involves various components. With that said, arguably the two most important components of the implementation process include integration and education. The integration component of the implementation process involves the process of merging or adding the newly developed employee grievance policies and procedures to existing organizational policies and procedures, e.g. adding the newly developed employee grievance policies and procedures to organizational documentation, electronic versions of organizational policies and procedures, and employee handbooks. The education component of the implementation process typically involves the process of providing employees with direct information regarding the newly developed employee grievance policies and procedures.

The last essential elements or steps to establishing and/or updating employee grievance policies and procedures are monitoring and evaluation. The monitoring and evaluation of employee grievance policies and procedures can begin as soon as the implementation process ends. The core of monitoring and evaluating employee grievance policies and procedures lies in determining if the newly developed employee grievance policies and procedures are effective. Effective employee grievance policies and procedures help resolve employee grievances in a timely

manner, while ineffective employee grievance policies and procedures stunt the grievance resolution process to the point where grievances are not resolved in a timely manner or not resolved at all. If the newly developed employee grievance policies and procedures are deemed effective, through monitoring and evaluation, then administrators should continue to monitor and evaluate the newly developed employee grievance policies and procedures to ensure they resolve grievances in a manner consistent with recommended models for resolving grievances, such as the model provided by the NCAL.

## ***Section 2: Key Concepts***

- Health care organizations should have established employee grievance policies and procedures in place to help manage employee grievances.
- To establish/update employee grievance policies and procedures, health care administrators should employ a strategy involving a multifaceted approach mainly consisting of the following essential elements or steps: planning, development, implementation, monitoring, and evaluation.
- When it relates to the establishment of employee grievance policies and procedures, the planning process typically involves and includes vital components such: gathering information, conducting research, and forming a team of individuals dedicated to achieving a common and shared goal.
- The bulk of the developmental phase will involve the actual writing, or updating, of the employee grievance policies and procedures.
- Once the development of the employee grievance policies and procedures is completed, the implementation process can begin. The two most important components of the implementation process include integration and education.
- The core of monitoring and evaluating employee grievance policies and procedures lies in determining if the newly developed employee grievance policies and procedures are effective.
- Effective employee grievance policies and procedures help resolve employee grievances in a timely manner.

## **Section 2: Key Terms**

**Employee grievance policies and procedures** - any formal documentation and/or established organizational means which may be used to communicate relevant information as well as address and resolve employee grievances<sup>1,2</sup>

**Active listening** - the process in which one individual gathers information from another individual by engaging in a style of two-way communication which fosters a clear and mutual understanding of information; the process of listening with the intent to obtain meaning<sup>3</sup>

**Passive listening** - a style of communication characterized by limited focus, limited attention, and an overall lack of desire to obtain meaning<sup>3</sup>

**Collaborative team (as it pertains to this course)** - a group of individuals who share common goals and work together to achieve predetermined or specific objectives/ results<sup>4</sup>

**Grievance resolution strategy (as it pertains to this course)** - any technique, method, or strategy that may be used to de-escalate and resolve a grievance

**Model for resolving grievances (as it pertains to this course)** - any such model which outlines the process or steps health care organizations should take when resolving grievances in order to formally resolve grievances in a timely manner while optimizing results<sup>6</sup>

**Effective communication** - the adequate transmission of information or messages between two or more individuals<sup>7</sup>

**Miscommunication** - the inadequate transmission of information or messages between two or more individuals<sup>7</sup>

**Objectivity** - the process of obtaining meaning or information that is true outside of an individual's bias and/or opinion<sup>9</sup>

## **Section 2: Personal Reflection Question**

How may administrators establish/update employee grievance policies and procedures for their specific health care organization?

## Section 3: Case Studies Revisited

With the previous insight into employee grievance policies and procedures in mind, the three case studies presented at the beginning of this course will now be revisited. Each case study will be re-presented below followed by a case study review. The case study review will include the types of questions administrators should ask themselves when considering employee grievances. Additionally, reflection questions will be posed to encourage further internal debate and consideration regarding the presented case study and employee grievances.

### *Case Study 1*

Nurse A and Nurse B have been working together for the past six months. During the aforementioned time period, Nurse A noted that Nurse B made several derogatory comments regarding Nurse A's appearance, work style, and overall personality. Nurse B's comments towards Nurse A include the following: "you do not look good today," "you are not a good nurse," "you are not good at your job," "you are not a good person to work with," etc. Nurse A is confused by Nurse B's comments because Nurse A recently received a positive work review and has always gotten along with coworkers. Over the next few weeks Nurse B's comments towards Nurse A intensify in nature. Additionally, Nurse B attempts to intimidate Nurse A into quitting by looming over Nurse A and making direct comments to Nurse A such as: "you are a terrible nurse, just quit your job," "you are going to make a mistake," "you are a terrible nurse so quit today." The intimidation and direct comments related to Nurse A quitting go on for another week. By the end of the week, Nurse A begins to become distraught, nervous about working with Nurse B, and overall uneasy about how to proceed.

### *Case Study 1 Review*

#### **What appears to be the main potential grievance in Case Study 1?**

The main potential grievance in Case Study 1 appears to be some kind interpersonal conflict between Nurse A and Nurse B (interpersonal conflict may refer to a state of disconnection between two individuals, typically caused by actual or perceived opposition<sup>10</sup>). Essentially, Nurse B seems to be bullying Nurse A into quitting.

Are there any other potential employee grievances present in Case Study 1; if so what are they?

#### **What appears to be the main cause of the potential grievance in Case Study 1?**

Based on the information presented in Case Study 1, the main cause of the potential grievance remains elusive. However, as previously alluded to, it centers around an interpersonal conflict between Nurse A and Nurse B.

Interpersonal conflicts can be common in the workplace and may occur for several different reasons including: differences of opinion, beliefs, values, and personality clashes among coworkers. Interpersonal conflicts can be detrimental to a workplace environment if they are not resolved in a timely fashion, especially in health care settings due to their potential to negatively impact patient care. Thus, interpersonal conflicts should be resolved quickly. On a positive note, interpersonal conflicts can lead to growth and development among the individuals involved in the interpersonal conflict as well as the workplace environment they take place in. Thus, viewing interpersonal conflicts from a more positive perspective can help evoke positive changes in workplace environments.

What other factors may be causing the potential grievance in Case Study 1?

### **How may the potential grievance in Case Study 1 be resolved?**

The potential grievance in Case Study 1 may be resolved in many different ways. Three examples of how the potential grievance in Case Study 1 may be resolved can be found below.

**Example 1: Open communication** - one way the potential grievance in Case Study 1 may be resolved is through the use of open communication. Open communication may refer to a two-way flow of messages and information among individuals, i.e., a process of sharing information, which passes back and forth, among individuals until a shared meaning is achieved.<sup>7,8</sup> In a scenario where open communication is used to resolve the potential grievance in Case Study 1, Nurse A and Nurse B could choose to resolve the potential grievance between them by sitting down and discussing their interpersonal conflict, i.e., communicating openly. By communicating openly about their interpersonal conflict, perhaps Nurse A and Nurse B can reach the underlying issue behind their interpersonal conflict and, eventually, resolve their differences, research resolution, and move on to a more positive work-related relationship.

**Example 2: Manager intervention** - another possible way the potential grievance in Case Study 1 can be resolved is through manager intervention. In a scenario where manager intervention is used to resolve the potential grievance in Case Study 1, Nurse A could choose to involve a manager to intervene and, ultimately, resolve the potential grievance between Nurse A and Nurse B. In a scenario where manager intervention is used to resolve a potential grievance among coworkers, the manager should remain objective to ensure a fair and unbiased resolution is reached. If the

manager does not remain objective it could lead to further issues such as grievance escalation and/or additional grievances.

**Example 3: Formal employee grievance submission** - an additional method that may be used to achieve grievance resolution in Case Study 1 is formal grievance submission. In a scenario where formal grievance submission is used to resolve the potential grievance in Case Study 1, Nurse A could choose to submit a formal grievance to the health care organization of employment. With that said, the grievance resolution process and, perhaps most importantly, the final grievance resolution result would, ultimately, hinge on the effectiveness of the employee grievance policies and procedures of the specific health care organization, i.e., the end result of the employee grievance resolution process may be impacted by or depend on the health care organization's employee grievance policies and procedures.

Are there any other possible ways the potential grievance in Case Study 1 may be resolved; if so what are they?

**If Nurse A chooses to submit a formal employee grievance, what possible grievance resolution outcomes may occur if the health care organization has ineffective employee grievance policies and procedures in place?**

As previously mentioned, effective employee grievance policies and procedures help resolve employee grievances in a timely manner, while ineffective employee grievance policies and procedures stunt the grievance resolution process to the point where grievances are not resolved in a timely manner or not resolved at all. With that said, many possible grievance resolution outcomes are possible if Nurse A's health care organization has ineffective employee grievance policies and procedures in place. Examples of possible outcomes that may occur if Nurse A's health care organization has ineffective employee grievance policies and procedures in place may be found below. Administrators should note that the following example grievance resolution outcomes should be avoided whenever possible.

**Example 1: The receipt of the formal employee grievance is not acknowledged** - as previously mentioned, if a formal employee grievance is submitted the health care organization should acknowledge, in some fashion, that the formal employee grievance was received. Doing so can inform the employee, who submitted the formal employee grievance, that the formal employee grievance resolution process has been initiated. Additionally, it can indirectly or directly inform the employee that his or her formal employee grievance, in some way, has been heard. By letting the employee know his or her formal employee grievance was received, it can let the employee know he or she is being heard by those who can work to resolve the grievance.

Furthermore, acknowledging the receipt of a formal employee grievance can potentially help avoid or prevent grievance escalation or the formation of additional employee grievances. One example of a possible outcome that may occur if receipt of the formal employee grievance, submitted by Nurse A, is not acknowledged by the health care organization is as follows: Nurse A submits a formal employee grievance; the health care organization never acknowledges receipt of the formal employee grievance; Nurse A begins to wonder if the health care organization received the formal employee grievance; subsequently, Nurse A begins to wonder if anything is being done by the health care organization to resolve the interpersonal conflict in question; consequently Nurse A becomes nervous that the interpersonal conflict in question will not be resolved; additionally, Nurse B continues to bully Nurse A; as a result, Nurse A becomes increasingly nervous and frightened that the interpersonal conflict with Nurse B will continue indefinitely; eventually Nurse A's nervous and frightened demeanor begin to affect work-related focus; Nurse A loses focus; medication errors begin to occur due to Nurse A's impaired focus; patient care and safety is eventually jeopardized.

**Example 2: Delayed employee grievance resolution** - it has been noted that ineffective employee grievance policies and procedures may lead to delayed employee grievance resolution - meaning the resolution outcome or decision of a formal employee grievance is not delivered in a timely fashion. Such delays can potentially lead to additional issues such as grievance escalation and the formation of further employee grievances. One example of a possible outcome that may occur if the formal employee grievance submitted by Nurse A is not resolved in a timely fashion is as follows: the formal employee grievance submitted by Nurse A is not resolved in a timely fashion; as a result tension between Nurse A and Nurse B mount; over time the tension reaches an elevated point and the interpersonal conflict between Nurse A and Nurse B escalates; eventually the interpersonal conflict between Nurse A and Nurse B escalates to physical violence between Nurse A and Nurse B; as a result of the physical violence, law enforcement has to intervene.

**Example 3: Delayed employee grievance resolution** - another example of a possible outcome that may occur if the formal employee grievance submitted by Nurse A is not resolved in a timely fashion is as follows: the formal employee grievance submitted by Nurse A is not resolved in a timely fashion; as a result nothing is done to deescalate the interpersonal conflict between Nurse A and Nurse B; because nothing is done the interpersonal conflict between Nurse A and Nurse B continues; Nurse B continues to attempt to intimidate and bully Nurse A into quitting; eventually Nurse A cannot take any additional bullying and quits; upon quitting Nurse A retains the services of an attorney; attorney intervention regarding the formal employee grievance submitted by Nurse A is required.

**Example 4: Delayed employee grievance resolution** - an additional example of a possible outcome that may occur if the formal employee grievance submitted by Nurse A is not resolved in a timely fashion is as follows: the formal employee grievance submitted by Nurse A is not resolved in a timely fashion; as a result nothing is done to deescalate the interpersonal conflict between Nurse A and Nurse B; Nurse B begins to escalate the interpersonal conflict in question; Nurse B increases the efforts to bully and verbally assault Nurse A; additional time goes by and the employee grievance is not resolved; as a result Nurse B suspects nothing will be done by the health care organization; Nurse B becomes emboldened by the lack of employee grievance resolution; Nurse B begins to bully and verbally assault other nurses; the other nurses who Nurse B bullies and verbally assaults become agitated and interpersonal conflicts develop between Nurse B and the other nurses; subsequently, the other nurses submit their own formal employee grievances resulting in additional formal employee grievances.

**Example 5: Employee grievances-related information is not adequately gathered** - when a formal employee grievance is submitted health care organizations should then gather relevant information related to the formal employee grievance. Information regarding a grievance may come from many different sources including: the employees involved in the grievance, other employees not directly involved in the grievance, additional witnesses, organizations' policies as well as state and federal laws. It is important for health care organizations to gather information related to a grievance because doing so can help provide insight into the nature of the grievance and, ultimately, provide a complete understanding of the grievance in question, which can be invaluable when arriving at a grievance decision. If relevant grievance-related information is not adequately gathered by health care organizations, it can lead to inadequate decision making, which in turn could lead to the formation of additional grievances. An example of a possible outcome that may occur if employee grievance-related information is not adequately gathered is as follows: Nurse A submits a formal employee grievance; the health care organization begins the grievance resolution process, however the health care organization does not adequately gather relevant information, e.g., a representative from the health care organization does not interview or speak with Nurse A or Nurse B; the health care organization arrives at a grievance decision; the health care organization notifies Nurse A and Nurse B regarding the grievance decision; Nurse A and Nurse B receive information regarding the final grievance decision; both Nurse A and Nurse B are not content with the health care organization's grievance decision because they feel they were not involved in the grievance resolution process and they feel the health care organization's grievance decision does not resolve the interpersonal conflict between them; as a result both Nurse A and Nurse B retain an attorney; attorney intervention regarding the formal

employee grievance submitted by Nurse A is required, i.e., both Nurse A and Nurse B seek attorney intervention.

In regards to Case Study 1, what other potential outcomes may result from ineffective employee grievance policies and procedures?

**If Nurse A chooses to submit a formal employee grievance, what possible grievance resolution outcomes may occur if the health care organization has effective employee grievance policies and procedures in place?**

Effective employee grievance policies and procedures help resolve employee grievances in a timely manner. They also help health care organizations avoid employee grievance-related scenarios and outcomes like the ones highlighted directly above. With that in mind, many possible grievance resolution outcomes are possible if Nurse A's health care organization has effective employee grievance policies and procedures in place. An example of a possible outcome that may occur if Nurse A's health care organization has effective employee grievance policies and procedures in place may be found below.

***Example: Effective employee grievance policies and procedures in place*** - Nurse A submits a formal employee grievance; receipt of the formal employee grievance, submitted by Nurse A, is acknowledged by the health care organization, i.e., Nurse A is notified by the health care organization that an appropriate health care organization representative has received the submitted formal employee grievance; the formal employee grievance begins; the health care organization adequately gathers relevant information, e.g., a representative from the health care organization interviews both Nurse A and Nurse B; the employee grievance resolution process is documented; a formal decision regarding the employee grievance in question is made; representatives from the health care organization follow up with Nurse A and Nurse B to notify them of the official employee grievance decision, i.e., the health care organization provides formal documentation to Nurse A and Nurse B which outlines the health care organization's official employee grievance decision; both Nurse A and Nurse B feel the official employee grievance decision is adequate, i.e., both Nurse A and Nurse B feel comfortable with the health care organization's official employee grievance decision; ultimately, the interpersonal conflict between Nurse A and Nurse B is resolved; attorney intervention is not required, patient safety and care is not jeopardized in any way, there is no additional grievance escalation/no additional formal grievances formulate; the formal employee grievance submitted by Nurse A regarding the interpersonal conflict between Nurse A and Nurse B is resolved.

In regards to Case Study 1, what other potential outcomes may result from effective employee grievance policies and procedures?

## **Case Study 2**

Nurse C returns home after completing a shift. Shortly after arriving home, Nurse C receives a phone call from Nurse Manager D regarding a patient's medications. Nurse Manager D asks Nurse C if a specific patient's afternoon medications were administered. The patient in question is a 42 year-old, lucid male. Nurse Manager D proceeds to explain to Nurse C that the patient verbally acknowledged that he received his afternoon medications, however there is no health care documentation noting that the patient did indeed receive his afternoon medications. After a brief discussion Nurse C confirms that the patient did receive his afternoon medications. The next day Nurse C begins another shift. Before Nurse C can get situated, Nurse Manager D confronts Nurse C in a medication room regarding the lack of health care documentation related to the aforementioned patient. The conversation regarding the health care documentation quickly escalates and Nurse Manager D enters Nurse C's personal space and begins to speak louder. Nurse C takes a step back to de-escalate the intensity of the conversation, however Nurse Manager D takes another step forward, forcing Nurse C to take a step back, and once again escalates the conversation. Nurse Manager D then threatens to fire Nurse C, over the previously highlighted incident. Nurse C is not sure how to respond and begins to feel extremely uncomfortable. Nurse C attempts to leave the medication room, but Nurse Manager D blocks the door and continues to escalate the conversation. Nurse C calmly responds by explaining that the lack of health care documentation regarding the patient in question's medications was an isolated incident (Nurse C has an exemplary work record, which dates back over 6 years of employment). Before Nurse C can finish speaking, Nurse Manager D interrupts Nurse C with additional comments related to the incident. Nurse Manager D also begins to question Nurse C's sexuality. Nurse C becomes increasingly uncomfortable and expresses the feelings of discomfort to Nurse Manager D. Nurse Manager D responds to Nurse C by saying that is "too bad," and by making additional derogatory comments about Nurse C's perceived sexual preference. Eventually, Nurse Manager D aggressively leaves the medication room. Nurse C is left reeling and feeling horrible. Nurse C is not sure what to do next and is fearful that there will be another negative encounter with Nurse Manager D in the future. Nurse C is also left wondering if the previously highlighted incident had anything to do with sexual preference.

## **Case Study 2 Review**

### **What appears to be the main potential grievance in Case Study 2?**

The main potential grievance in Case Study 2 appears to be some kind interpersonal conflict between Nurse C and Nurse Manager D. The interpersonal conflict between

Nurse C and Nurse Manager D seems to have resulted from a lack of health care documentation regarding a patient's afternoon medications. However, due to the extent of Nurse Manager D's reaction to the lack of health care documentation, there appears to be some underlying issues behind the interpersonal conflict with Nurse C. Additionally, because Nurse Manager D is a health care professional manager and due to the relatively aggressive nature of Nurse Manager D's attempt to discuss the lack of health care documentation with Nurse C, coupled with Nurse Manager D's comments regarding Nurse C's perceived sexuality, the potential grievance may extend beyond a simple and straightforward interpersonal conflict between coworkers. Essentially, the potential grievance may include a component of or, ultimately, center around discrimination based on individual sexual preference.

Are there any other potential employee grievances present in Case Study 2; if so what are they?

**What appears to be the main cause of the potential grievance in Case Study 2?**

As previously alluded to, at first glance the main cause of the potential grievance in Case Study 2 appears to be some kind of interpersonal conflict between Nurse C and Nurse Manager D. However, after reviewing Case Study 2 and considering some vital case details, e.g., Nurse C has an exemplary work record, which dates back to over 6 years of employment, Nurse Manager D questions Nurse C's sexuality, Nurse Manager D makes derogatory comments about Nurse C's perceived sexual preference, and Nurse Manager D's overall nature during the confrontation with Nurse C seems to be one of aggression, one may conclude that the main cause of the potential grievance centers around discrimination based on individual sexual preference.

Discrimination does occur in the workplace. That being the case, laws, such as the ones included in the Employment Non-Discrimination Act of 2013, have been put in place to protect employee's rights against discrimination in the workplace. The Employment Non-Discrimination Act of 2013 prohibits covered entities (employers, employment agencies, labor organizations, or joint labor-management committees) from engaging in employment discrimination on the basis of an individual's actual or perceived sexual orientation or gender identity.<sup>2</sup> Due to the Employment Non-Discrimination Act of 2013 and other related laws, administrators should work to ensure discrimination of any kind does not occur in their health care organization. Furthermore, administrators should note any violation of the Employment Non-Discrimination Act of 2013 or related laws may lead to state, federal, and/or attorney intervention.

What other factors may be causing the potential grievance in Case Study 2?

## How may the potential grievance in Case Study 2 be resolved?

The potential grievance in Case Study 2 may be resolved in many different ways. Three examples of how the potential grievance in Case Study 2 may be resolved can be found below.

**Example 1: Open communication** - one way the potential grievance in Case Study 1 may be resolved is through the use of open communication. In a scenario where open communication is used to resolve the potential grievance in Case Study 2, Nurse C and Nurse Manager D could choose to resolve the potential grievance between them by sitting down and discussing their interpersonal conflict, i.e., communicating openly. By communicating openly about their interpersonal conflict, perhaps Nurse C and Nurse Manager D can reach the underlying issue behind their interpersonal conflict and, eventually, resolve their differences, reach resolution, and move on to a more positive work-related relationship.

**Example 2: Involve the services of the human resource office within their health care organization** - human resource offices within organizations, typically, provide guidance for employees who may be navigating through a difficult work-related situation. In a scenario where the services of a health care organization's human resource office is used to resolve the potential grievance in Case Study 2, Nurse C could choose to elicit the services of an individual from the health care organization's human resource office to act as a type of mediator between Nurse C and Nurse Manager D. Including a type of mediator from the health care organization's human resource office could help elevate some of the aggression displayed by Nurse Manager D towards Nurse C as well as address the potential for discrimination. Administrators should note that when aggression or the threat for physical violence is present between two employees, utilizing the service of a type of mediator to resolve interpersonal conflicts and potential grievances may be beneficial to avoiding any type of aggressive outburst or physical assault.

**Example 3: Formal employee grievance submission** - an additional method that may be used to achieve grievance resolution in Case Study 2 is formal grievance submission. In a scenario where formal grievance submission is used to resolve the potential grievance in Case Study 2, Nurse C could choose to submit a formal grievance to the health care organization of employment. With that said, the grievance resolution process and, perhaps most importantly, the final grievance resolution result would, ultimately, hinge on the effectiveness of the employee grievance policies and procedures of the specific health care organization, i.e., the end result of the employee grievance resolution process may be impacted by or depend on the health care organization's employee grievance policies and procedures.

Are there any other possible ways the potential grievance in Case Study 2 may be resolved; if so what are they?

**If Nurse C chooses to submit a formal employee grievance, what possible grievance resolution outcomes may occur if the health care organization has ineffective employee grievance policies and procedures in place?**

As previously mentioned, effective employee grievance policies and procedures help resolve employee grievances in a timely manner, while ineffective employee grievance policies and procedures stunt the grievance resolution process to the point where grievances are not resolved in a timely manner or not resolved at all. With that said, many possible grievance resolution outcomes are possible if Nurse C's health care organization has ineffective employee grievance policies and procedures in place. Examples of possible outcomes that may occur if Nurse C's health care organization has ineffective employee grievance policies and procedures in place may be found below. Administrators should note that the following example grievance resolution outcomes should be avoided whenever possible.

***Example 1: The receipt of the formal employee grievance is not acknowledged*** - as previously mentioned, if a formal employee grievance is submitted the health care organization should acknowledge, in some fashion, that the formal employee grievance was received. One example of a possible outcome that may occur if receipt of the formal employee grievance, submitted by Nurse C, is not acknowledged by the health care organization is as follows: Nurse C submits a formal employee grievance; the health care organization never acknowledges receipt of the formal employee grievance; Nurse C begins to wonder if the health care organization received the formal employee grievance; subsequently, Nurse C begins to wonder if anything is being done by the health care organization to resolve the grievance in question; consequently Nurse C becomes nervous that the grievance will not be resolved; additionally Nurse C becomes increasingly uncomfortable in the workplace and increasingly concerned that another incident with Nurse Manager D is imminent; as a result Nurse C begins to voice concerns regarding the incident with Nurse Manager D and the health care organization; other health care employees hear about the details of the incident with Nurse Manager D, including the overall aggression of Nurse Manager D and the potential for discrimination; other health care employees are outraged by Nurse Manager D and the perceived lack of action by the health care organization; also other health care employees become increasingly uncomfortable around Nurse Manager D; dissention among health care employees begins to rise; eventually a group of health care employees, including Nurse C, approach administration to directly voice their concerns and call for the termination of Nurse Manager D on the grounds of creating an unsafe work environment and open

discrimination; the health care organization finds itself in the middle of a work-related crisis that has ballooned into an intense issue that may require state, federal, or attorney intervention.

**Example 2: Delayed employee grievance resolution** - an example of a possible outcome that may occur if the formal employee grievance submitted by Nurse C is not resolved in a timely fashion is as follows: the formal employee grievance submitted by Nurse C is not resolved in a timely fashion; as a result nothing is done to de-escalate the interpersonal conflict/grievance between Nurse C and Nurse Manager D; because nothing is done the interpersonal conflict/grievance between Nurse C and Nurse Manager D continues; Nurse Manager D continues to act relatively aggressive towards Nurse C and also continues to make odd comments regarding Nurse C's perceived sexuality; as a result Nurse C becomes increasingly uncomfortable in the workplace; eventually Nurse C resigns; upon resigning Nurse C retains the services of an attorney; attorney intervention regarding the formal employee grievance submitted by Nurse C is required.

**Example 3: Objectivity is not maintained during the formal employee grievance resolution process** - it is essential that administrators and other individuals involved in the formal employee grievance resolution process remain objective. It is also essential that those involved in a formal employee grievance resolution process avoid subjectivity. Subjectivity may refer to the process of forming an opinion and/or judgment based on one's own point of view or perspective<sup>9,10</sup>. Often when something is subjective, it is, typically, an opinion or point of view. Subjectivity should be avoided during a formal employee grievance resolution process because it may lead to biased, egregious decisions that are rooted in opinion rather than obvious facts, which in turn may lead to employee grievance escalation, the formation of additional employee grievances, and/or state, federal, or attorney intervention. On the other hand, objectivity should be maintained during the formal employee grievance resolution process because it can help those involved in the formal employee grievance resolution process reach unbiased, fair decisions which are rooted in undeniable facts, which in turn achieve grievance resolution. An example of a possible outcome that may occur if objectivity is not maintained during the formal employee grievance resolution process is as follows: Nurse C submits a formal employee grievance; the health care organization begins the grievance resolution process; somewhere during the process of obtaining relevant information relating to the employee grievance in question, those involved in the formal employee grievance resolution process lose objectivity and form an opinion and a decision before all necessary details are gathered; the investigation regarding the grievance is cut short; Nurse C is never interviewed and the potential discrimination is never addressed; a formal decision is made by the health care organization; Nurse C is not pleased with

the decision because it does not seem to be rooted in fact or address the potential discrimination which seems to be pushed aside based on what are obviously opinions by those involved in the grievance resolution process; Nurse C is forced to escalate the grievance and file for some type of grievance appeal; Nurse C also retains an attorney for possible intervention.

**Example 4: The health care organization does not follow up with the employee(s) involved in the grievance** - once an organization reaches an official decision regarding a grievance, the organization should formally follow up with the employee who submitted the grievance and any employees involved in the grievance, i.e., an organization should provide the employee(s) involved in a grievance with adequate documentation outlining the formal grievance decision and the formal grievance resolution process that transpired to reach the formal grievance decision. Failure to do so could lead to grievance escalation and the formation of additional employee grievances. An example of a possible outcome that may occur if a health care organization does not follow up with the employee(s) involved in the grievance is as follows: Nurse C submits a formal employee grievance; the health care organization begins the grievance resolution process; the health care organization concludes the formal grievance resolution process and reaches a decision; the health care organization does not provide Nurse C with any information or documentation regarding the formal grievance decision or the formal grievance resolution process that transpired to reach the formal grievance decision; additional time passes and Nurse C is left wondering if a formal grievance decision has been made; also Nurse C notes that Nurse Manager D has not been recently observed working in any capacity at the health care facility; rumors begin to spread around the health care facility regarding Nurse Manager D and Nurse Manager D's recent absence; due to the rumors, Nurse C is not sure what happened to Nurse Manager D or if Nurse Manager D's recent absence is related to the grievance in question; Nurse C becomes increasingly uncomfortable due to the lack of information; consequently, Nurse C retains the services of an attorney and submits an additional formal employee grievance centered around the lack of formal information regarding the grievance related to Nurse Manager D.

In regards to Case Study 2, what other potential outcomes may result from ineffective employee grievance policies and procedures?

**If Nurse C chooses to submit a formal employee grievance, what possible grievance resolution outcomes may occur if the health care organization has effective employee grievance policies and procedures in place?**

Effective employee grievance policies and procedures help resolve employee grievances in a timely manner. They also help health care organizations avoid employee grievance-related scenarios and outcomes like the ones highlighted directly above. With that in mind, many possible grievance resolution outcomes are possible if Nurse C's health care organization has effective employee grievance policies and procedures in place. An example of a possible outcome that may occur if Nurse C's health care organization has effective employee grievance policies and procedures in place may be found below.

***Example: Effective employee grievance policies and procedures in place*** - Nurse C submits a formal employee grievance; receipt of the formal employee grievance, submitted by Nurse C, is acknowledged by the health care organization, i.e., Nurse C is notified by the health care organization that an appropriate health care organization representative has received the submitted formal employee grievance; the formal employee grievance resolution process begins; the health care organization adequately gathers relevant information, e.g., a representative from the health care organization interviews both Nurse C and Nurse Manager D; the employee grievance resolution process is documented; the potential discrimination is addressed; a formal decision regarding the employee grievance in question is made; representatives from the health care organization follow up with Nurse C and Nurse Manager D to notify them of the official employee grievance decision, i.e., the health care organization provides formal documentation to Nurse C and Nurse Manager D which outlines the health care organization's official employee grievance decision; both Nurse C and Nurse Manager D feel the official employee grievance decision is adequate, i.e., both Nurse C and Nurse Manager D feel comfortable with the health care organization's official employee grievance decision; ultimately, the grievance between Nurse C and Nurse Manager D is resolved; attorney intervention is not required, patient safety and care is not jeopardized in any way, there is no additional grievance escalation/no additional formal grievances formulate; the formal employee grievance submitted by Nurse C regarding the incident with Nurse Manager D is resolved.

In regards to Case Study 2, what other potential outcomes may result from effective employee grievance policies and procedures?

### **Case Study 3**

Nurse E works in a health care facility that was built several decades ago. The facility has recently undergone renovations - however, some of the medication rooms have yet to be renovated. While working in one of the medication rooms that has yet to be renovated, Nurse E notices that a shelving unit appears to be loose. The potentially loose shelving unit is right above a sink. Nurse E is concerned that the shelving unit

could fall right off the wall and strike or land on an individual using the sink right below it. Essentially, Nurse E believes the shelving unit is a hazard. Nurse E expresses the concern to a manager. A week goes by and no action is taken regarding the shelving unit. The next week Nurse E hears a loud crash coming from the medication room with the potentially loose shelving unit. Nurse E investigates the sound. Upon entering the medication room, Nurse E observes pieces of the shelving unit on the sink and on the floor. Apparently, the shelving unit collapsed. Nurse E's concerns regarding the hazardous shelving unit are confirmed. Nurse E feels it is very fortunate that no one was injured in the incident, but becomes increasingly worried about additional older shelving units in other medication rooms throughout the health care facility. One particular shelving unit sticks out in Nurse E's mind. Nurse E would like to make the management team within the health care facility aware of the additional potentially hazardous shelving unit as well as other noted potential work-related hazards. Once again, Nurse E approaches a manager. The manager informs Nurse E that the potential hazards will be looked into by the management team. Nurse E does not receive any kind of follow-up regarding the potential hazards.

### ***Case Study 3 Review***

#### **What appears to be the main potential grievance in Case Study 3?**

The main potential grievance in Case Study 3 appears to be centered around potential workplace-related hazards, including loose/dangerous shelving units. The other potential grievance in Case Study 3 appears to lie with inaction from health care management. In Case Study 3, Nurse E informed a manager about the potentially hazardous shelving unit, which eventually collapsed, however no action has been taken by the health care organization's management before the potentially hazardous shelving unit did indeed fall.

Are there any other potential employee grievances present in Case Study 3; if so what are they?

#### **What appears to be the main cause of the potential grievance in Case Study 3?**

The main cause of the potential grievance in Case Study 3 is a hazardous work environment. With that said, there is evidence to suggest that the main cause of the potential grievance in Case Study 3 may also lie with some form of inaction from the health care organization's management regarding the potential workplace hazards.

It has been well established that employees have specific rights in the workplace, which are protected by law. At the foundation of those rights is the right to a safe work environment, free of danger. To protect the employee's right to a safe work environment, the OSH Act was passed by the U. S. government. The OSH ACT requires

employers to provide their employees with working conditions that are free of known dangers.<sup>1</sup> It also gives workers the right to safe and healthful working conditions, while placing the duty of employers to provide workplaces that are free of known dangers that could harm their employees.<sup>1</sup> In essence, the OSH ACT was passed to prevent workers from being killed or otherwise harmed at work. Due to the relevance of the OSH ACT, administrators should ensure their health care organizations meets the standards set forth by the OSH ACT and maintains a safe working environment for all employees.

What other factors may be causing the potential grievance in Case Study 3?

### **How may the potential grievance in Case Study 3 be resolved?**

The potential grievance in Case Study 3 may be resolved in many different ways. Three examples of how the potential grievance in Case Study 3 may be resolved can be found below.

**Example 1: Involve the services of the human resource office** - human resource offices within organizations typically provide guidance for employees who may be navigating through a difficult work-related situation. In a scenario where the services of a health care organization's human resource office is used to resolve the potential grievance in Case Study 3, Nurse E could choose to elicit the services of an individual from the health care organization's human resource office to follow up with management regarding the potential hazards. It should be noted that Nurse E did alert management about the potential work-related hazards on two different occasions, however there was no apparent follow up. When an employee notifies management about potential workplace issues, especially workplace hazards, a follow-up is warranted. If an employee follow-up does not occur an employee may have to elicit the services of a human resource representative to act on his or her behalf in order to further follow up with management to ensure action is taken to resolve the issue at hand. Administrators should note that employee follow-ups are vital to the internal communication of a health care organization. Failure to follow up with employees may lead to grievance escalation as well as state, federal, and/or attorney intervention.

**Example 2: Involve OSHA** - the OSH Act created OSHA, which sets and enforces protective workplace safety and health standards. If employees identify workplace hazards they may file a complaint with OSHA to seek intervention and, ultimately, improve the safety of the workplace. Regarding employee complaints, the OSH Act states the following (the information found below was derived from materials provided by the Federal government of the United States of America<sup>1</sup>):

- If a workplace has unsafe or unhealthful working conditions, an employee may file a complaint with OSHA.
- On-site inspections can be triggered by a worker complaint of a potential workplace hazard or violation.
- Current workers or their representatives may file a written complaint and ask OSHA to inspect their workplace if they believe there is a serious hazard or that their employer is not following OSHA standards or rules. Workers and their representatives have the right to ask for an inspection without OSHA telling their employer who filed the complaint. It is a violation of the OSH Act for an employer to fire, demote, transfer or retaliate in any way against a worker for filing a complaint or using other OSHA rights.
- An employee may file a complaint via mail, internet, or by telephone.
- Employee representatives, for the purposes of filing a complaint, are defined as any of the following:
  - an authorized representative of the employee bargaining unit, such as a certified or recognized labor organization.
  - an attorney acting for an employee.
  - any other person acting in a bona fide representative capacity, including, but not limited to, members of the clergy, social workers, spouses and other family members, health care providers and government officials or nonprofit groups and organizations acting upon specific complaints or injuries from individuals who are employees. In general, the affected employee should have requested, or at least approved, the filing of the complaint on his or her behalf.
- In addition, anyone who knows about a workplace safety or health hazard may report unsafe conditions to OSHA, and OSHA will investigate the concerns reported.
- Employees have specific rights during an OSHA inspection, which are protected by the OSH Act.
- During an OSHA inspection, workers or their representatives may have a representative of employees, such as the safety steward of a labor organization, go along on the inspection.

- During an OSHA inspection, workers or their representatives may talk privately with the inspector; and take part in meetings with the inspector before and after the inspection.
- When there is no authorized employee representative, the OSHA inspector must talk confidentially with a reasonable number of workers during the inspection. Additionally, employees are encouraged to point out hazards; describe injuries or illnesses which resulted from these hazards; discuss past employee complaints about hazards; and inform the inspector of working conditions that are not normal during the inspection.
- At the end of the inspection, the OSHA inspector will meet with the employer and the employee representatives in a closing conference to discuss any violations found and possible methods by which any hazards found will be abated. If it is not practical to hold a joint conference, the compliance officer will hold separate conferences. When the OSHA area director determines that there has been a violation of OSHA standards, regulations, or other requirements, the area director issues a citation and notification of proposed penalty to an employer. A citation includes a description of the violation and the date by when the corrective actions must be taken. Depending on the situation, OSHA can classify a violation as serious, willful, or repeat. The employer can also be cited for failing to correct a violation for which it has already been cited. Employers must post a copy of a citation in the workplace where employees will see it.

**Example 3: Formal employee grievance submission** - an additional method that may be used to achieve grievance resolution is Case Study 3 is formal grievance submission. In a scenario where formal grievance submission is used to resolve the potential grievance in Case Study 3, Nurse E could choose to submit a formal grievance to the health care organization of employment. With that said, the grievance resolution process and, perhaps most importantly, the final grievance resolution result would, ultimately, hinge on the effectiveness of the employee grievance policies and procedures of the specific health care organization, i.e., the end result of the employee grievance resolution process may be impacted by or depend on the health care organization's employee grievance policies and procedures.

Are there any other possible ways the potential grievance in Case Study 3 may be resolved; if so what are they?

**If Nurse E chooses to submit a formal employee grievance, what possible grievance resolution outcomes may occur if the health care organization has ineffective employee grievance policies and procedures in place?**

As previously mentioned, effective employee grievance policies and procedures help resolve employee grievances in a timely manner, while ineffective employee grievance policies and procedures stunt the grievance resolution process to the point where grievances are not resolved in a timely manner or not resolved at all. With that said, many possible grievance resolution outcomes are possible if Nurse E's health care organization has ineffective employee grievance policies and procedures in place. Examples of possible outcomes that may occur if Nurse E's health care organization has ineffective employee grievance policies and procedures in place may be found below. Administrators should note that the following example grievance resolution outcomes should be avoided whenever possible.

***Example 1: The receipt of the formal employee grievance is not acknowledged -***

An example of a possible outcome that may occur if receipt of the formal employee grievance, submitted by Nurse E, is not acknowledged by the health care organization is as follows: Nurse E submits a formal employee grievance; the health care organizations never acknowledges receipt of the formal employee grievance; Nurse E begins to wonder if the health care organization received the formal employee grievance; subsequently, Nurse E begins to wonder if anything is being done by the health care organization to resolve the grievance in question, e.g., remove any potential hazards from the workplace; consequently Nurse E becomes nervous that the grievance will not be resolved and that dangerous hazards will continue to plague the health care environment; additionally Nurse E becomes increasingly uncomfortable in the workplace and increasingly concerned that a potential workplace hazard will cause significant injury to an employee; as a result, Nurse E files a complaint with OSHA; OSHA receives Nurse E's complaint and an on-site inspection is triggered; an OSHA inspector arrives at the health care facility in question and conducts an official OSHA inspection; the OSHA inspector identifies many potential workplace hazards/violations; subsequently, the OSHA area director issues citations/notification of the proposed penalties to the health care organization; the citation includes a description of the workplace hazards/violations and the date by when the corrective actions must be taken; the health care organization is caught off guard by the citations/notification - renovations are underway within the health care facility, however budgetary concerns are determining their completion dates; due to the OSHA citations the budget and completion dates for the renovations need to be adjusted in an expedient manner; consequently, the health care organization finds itself in the center a unexpected predicament that possess the potential to jeopardize the future of the health care organization.

***Example 2: Delayed employee grievance resolution*** - an example of a possible outcome that may occur if the formal employee grievance submitted by Nurse E is not

resolved in a timely fashion is as follows: Nurse E submits a formal employee grievance; the employee grievance resolution process begins, however, due to some internal circumstances the employee grievance resolution process begins to slow down; the formal employee is not resolved in a timely fashion, i.e., the possible hazards, such as the additional potentially hazardous shelving unit, are not addressed in any way; the additional potentially hazardous shelving unit falls and strikes an employee; the employee is injured by the shelving unit; the employee has to take injury leave from the health care organization; the employee's sudden departure/leave causes staffing issues; additionally, the employee retains the services of an attorney; eventually, attorney intervention is required.

**Example 3: Inadequate employee follow-up** - once an organization reaches an official decision regarding a grievance, the organization should formally follow up with the employee who submitted the grievance and any employees involved in the grievance, i.e., an organization should provide the employee(s) involved in a grievance with documentation outlining the formal grievance decision and the formal grievance resolution process that transpired to reach the formal grievance decision. In addition, the aforementioned documentation should include supplementary material, when applicable, to further clarify any points that may be of concern to the employee(s) involved in a grievance. Failure to do so could lead to grievance escalation and the formation of additional employee grievances. An example of a possible outcome that may occur if a health care organization does not adequately follow up with the employee(s) involved in the grievance is as follows: Nurse E submits a formal employee grievance; the health care organization begins the grievance resolution process; the health care organization concludes the formal grievance resolution process and reaches a decision; the health care organization provides Nurse E with documentation regarding the formal grievance decision, however the documentation is limited, confusing, and does not include any supplementary material that clarifies the formal grievance decision; as a result Nurse E is not sure if the potential hazards will be addressed; subsequently Nurse E submits an additional formal grievance and files a complaint with OSHA.

In regards to Case Study 3, what other potential outcomes may result from ineffective employee grievance policies and procedures?

**If Nurse E chooses to submit a formal employee grievance, what possible grievance resolution outcomes may occur if the health care organization has effective employee grievance policies and procedures in place?**

Effective employee grievance policies and procedures help resolve employee grievances in a timely manner. They also help health care organizations avoid

employee grievance-related scenarios and outcomes like the ones highlighted directly above. With that in mind, many possible grievance resolution outcomes are possible if Nurse E's health care organization has effective employee grievance policies and procedures in place. An example of a possible outcome that may occur if Nurse E's health care organization has effective employee grievance policies and procedures in place may be found below.

**Example: Effective employee grievance policies and procedures in place** - Nurse E submits a formal employee grievance; receipt of the formal employee grievance, submitted by Nurse E, is acknowledged by the health care organization, i.e., Nurse E is notified by the health care organization that an appropriate health care organization representative has received the submitted formal employee grievance; the formal employee grievance resolution process begins; the health care organization adequately gathers relevant information, e.g., a representative from the health care organization interviews Nurse E; the employee grievance resolution process is documented; a formal decision regarding the employee grievance in question is made and action is taken, i.e., the potentially dangerous shelving units are removed and actions to address other potential hazards begin; representatives from the health care organization follow up with Nurse E to provide notification of the official employee grievance decision, i.e., the health care organization provides adequate formal documentation to Nurse E, which outlines the health care organization's official employee grievance decision and actions; the formal documentation also includes supplementary material which clarifies how the potential hazards are being addressed; Nurse E feels the official employee grievance decision is adequate, i.e., Nurse E feels comfortable with the health care organization's official employee grievance decision; ultimately, the grievance regarding potentially dangerous workplace hazards is resolved; state, federal, attorney, and/or OSHA intervention is not required; patient safety and care is not jeopardized in any way; there is no additional grievance escalation/no additional formal grievances formulate; the formal employee grievance submitted by Nurse E regarding potentially dangerous workplace hazards is concluded.

In regards to Case Study 3, what other potential outcomes may result from effective employee grievance policies and procedures?

### **Section 3: Summary**

Employee grievances may occur for many different reasons including: interpersonal conflicts, possible discrimination, and potentially dangerous workplace hazards. Whatever the cause of an employee grievance, administrators should be sure

effective employee grievance policies and procedures are in place to help resolve employee grievances in a timely manner.

### **Section 3: Key Concepts**

- Employee grievances may occur for many different reasons including: interpersonal conflicts, possible discrimination, and potentially dangerous workplace hazards.
- Interpersonal conflicts can be common in the workplace and may occur for several different reasons including: differences of opinion, beliefs, values, and personality clashes among coworkers. Interpersonal conflict can be detrimental to a workplace environment if they are not resolved in a timely fashion, especially in health care settings due to their potential to negatively impact patient care. Thus, interpersonal conflicts should be resolved quickly; interpersonal conflicts can lead to growth and development among the individuals involved in the interpersonal conflict as well as, ultimately, the workplace environment they take place in.
- Discrimination does occur in the workplace; laws, such as the ones included in the Employment Non-Discrimination Act of 2013 protect employee rights against discrimination in the workplace; violation of the Employment Non-Discrimination Act of 2013 or related laws may lead to state, federal, and/or attorney intervention.
- The OSH Act created OSHA, which sets and enforces protective workplace safety and health standards. If employees identify workplace hazards they may file a complaint with OSHA to seek intervention and, ultimately, improve the safety of the workplace.
- Administrators should be sure effective employee grievance policies and procedures are in place to help resolve employee grievances in a timely manner.

### **Section 3: Key Terms**

**Interpersonal conflict** - a state of disconnection between two individuals, typically caused by actual or perceived opposition<sup>10</sup>

**Open communication** - a two-way flow of messages and information among individuals, i.e., a process of sharing information, which passes back and forth, among individuals until a shared meaning is achieved<sup>7,8</sup>

**Delayed employee grievance resolution (as it pertains to this course)** - the resolution outcome or decision of a formal employee grievance is not delivered in a timely fashion

**Subjectivity** - the process of forming an opinion and/or judgment based on one's own point of view or perspective<sup>9</sup>

### **Section 3: Personal Reflection Question**

What types of employee grievances may arise in a health care setting; how may formal employee grievances achieve resolution?

## **Course Review**

The following questions are presented below to further review the concepts found in this course. By reviewing the following questions, administrators can obtain practical knowledge, which may be used to ensure effective employee grievance policies and procedures are in place within their health care organization.

Under the OSH ACT what are employers responsibilities regarding employees and working conditions that are free of known dangers?

Under the OSH Act, employers have several responsibilities regarding employees and working conditions that are free of known dangers including the following: the law requires employers to provide their employees with working conditions that are free of known dangers; employers have the responsibility to provide a safe workplace; employers must provide their employees with a workplace that does not have serious hazards and must follow all OSHA safety and health standards; employers must inform workers about hazards through training, labels, alarms, color-coded systems, chemical information sheets and other methods; employers must train workers in a language and vocabulary they can understand; employers must keep accurate records of work-related injuries and illnesses; employers must perform tests in the workplace, such as air sampling, required by some OSHA standards; employers must post OSHA citations and injury and illness data where workers can see them; employers must notify OSHA within 8 hours of a workplace fatality or within 24 hours of any work-related inpatient hospitalization, amputation or loss of an eye; employers must not retaliate against workers for using their rights under the law, including their right to report a work-related injury or illness; employers must comply with the General Duty Clause of the OSH Act; employers must provide most protective equipment free of charge.<sup>1</sup>

### **What is the Americans with Disabilities Act?**

The Americans with Disabilities Act of 1990 is an act which prohibits discrimination by a covered entity (any employer, employment agency, labor organization, or joint

labor-management committee) against any qualified individual with a disability in job application procedures, hiring or discharge, compensation, advancement, training, and other terms, conditions, and privileges of employment.<sup>2</sup>

***How may administrators establish/update effective employee grievance policies and procedures?***

Administrators may establish/update effective employee grievance policies and procedures by employing a strategy involving a multifaceted approach mainly consisting of the following essential elements or steps: planning, development, implementation, monitoring, and evaluation.

***What is miscommunication; how may individuals avoid miscommunication in the workplace?***

Miscommunication may refer to the inadequate transmission of information or messages between two or more individuals; when miscommunication occurs between individuals intended meaning may be lost.<sup>7</sup> Individuals can limit or avoid miscommunication in the workplace by: removing physical barriers when communicating with other individuals; maintaining eye contact; remaining professional; allowing for a free flow of information between individuals; engaging in active listening; clarifying points of confusion; asking questions; maintaining emotional stability allowing others to speak; limiting interruptions and distractions.<sup>3,7</sup>

***What is an interpersonal conflict?***

The term interpersonal conflict may refer to a state of disconnection between two individuals, typically caused by actual or perceived opposition.<sup>10</sup> Administrators should note the following regarding interpersonal conflicts: interpersonal conflicts can be common in the workplace and may occur for several different reasons including: differences of opinion, beliefs, values, and personality clashes among coworkers. Interpersonal conflict can be detrimental to a workplace environment if they are not resolved in a timely fashion, especially in health care settings due to their potential to negatively impact patient care; interpersonal conflicts should be resolved quickly; interpersonal conflicts can lead to growth and development among the individuals involved in the interpersonal conflict as well as, ultimately, the workplace environment they take place in; viewing interpersonal conflicts from a more positive perspective can help evoke positive changes in workplace environments.

***What outcomes may result from ineffective employee grievance policies and procedures?***

Effective employee grievance policies and procedures help resolve employee grievances in a timely manner, while ineffective employee grievance policies and procedures stunt the grievance resolution process to the point where grievances are not resolved in a timely manner or not resolved at all. Many possible outcomes are possible when ineffective employee grievance policies and procedures are present including the following: employee grievance escalation/the formation of additional formal employee grievances as well as state, federal, and/or attorney intervention.

## Conclusion

Employees, independent of race, gender, and background, have specific rights which apply to the workplace. Employees' work-related rights are typically protected by law. If an employee feels or believes his or her work-related rights have been violated in any way, he or she may file a formal employee grievance with his or her employer or with a relevant Federal government agency. With that said, it is typically the responsibility of the employer to address and resolve employee grievances.

To help manage and resolve formal employee grievances, health care organizations should have employee grievance policies and procedures in place. To establish employee grievance policies and procedures, or even to update existing employee grievance policies and procedures, health care administrators should employ a strategy involving a multifaceted approach mainly consisting of the following essential elements or steps: planning, development, implementation, monitoring, and evaluation.

The first essential element or step to establishing and/or updating employee grievance policies and procedures is planning. When it relates to the establishment of employee grievance policies and procedures, the planning process can take many forms and include a variety of different features such as: gathering information, conducting research, and forming a team of individuals dedicated to achieving a common and shared goal.

The next essential element or step to establishing and/or updating employee grievance policies and procedures is the development of the employee grievance policies and procedures. Much like the planning phase of the process, the developmental phase may include a variety of different parts. However, the bulk of the developmental phase will involve the actual writing, or updating, of the employee grievance policies and procedures.

Once the development of the employee grievance policies and procedures is completed the implementation process can begin. Arguably the two most important components of the implementation process include integration and education. The integration component of the implementation process involves the act of merging or adding the newly developed employee grievance policies and procedures to existing organizational policies and procedures. The education component of the implementation process typically involves the act of providing employees with direct information regarding the newly developed employee grievance policies and procedures.

The last essential elements or steps to establishing and/or updating employee grievance policies and procedures are monitoring and evaluation. The monitoring and evaluation of employee grievance policies and procedures can begin as soon as the implementation process ends. The core of monitoring and evaluating employee grievance policies and procedures lies in determining if the newly developed employee grievance policies and procedures are effective. Effective employee grievance policies and procedures help resolve employee grievances in a timely manner, while ineffective employee grievance policies and procedures stunt the grievance resolution process to the point where grievances are not resolved in a timely manner or not resolved at all. If the newly developed employee grievance policies and procedures are deemed effective, through monitoring and evaluation, then administrators should continue to monitor and evaluate the newly developed employee grievance policies and procedures to ensure they resolve grievances in a manner consistent with recommended models for resolving grievances. Moreover, administrators should ensure established employee grievance policies and procedures meet or exceed desired outcomes, while providing optimal grievance resolution results that benefit both the employees and the employers.

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