

## Drug-Free Workplace and Alcohol Policy

Policy Number: A051128216  
Effective Date: 11/28/2005  
Sponsoring Department: Human Resources  
Impacted Department(s): Independent Health, its subsidiaries and affiliated organizations

**Type of Policy:**  Internal  External

**Data Classification:**  Confidential  Restricted  Public

### Applies to (Line of Business):

- Corporate (All)  
 State Products, if yes which plan(s):  MediSource;  MediSource Connect;  Child Health Plus;  Essential Plan  
 Medicare, if yes, which plan(s):  MAPD;  PDP  
 Commercial, if yes, which type:  Large Group;  Small Group;  Individual

### Excluded Products within the Selected Lines of Business (LOB)

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N/A

**Applicable to Vendors?** Yes  No

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### Purpose and Applicability:

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To outline Independent Health Association, its subsidiaries and affiliated organizations drug-free workplace policy and drug-free awareness program in accordance with federal law.

Further, to maintain the safety and health of our associates, our customers and the public, this policy also prohibits the abuse of alcohol in the workplace.

## Policy:

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It is the intent and obligation of Independent Health Association to provide a drug-free environment. Independent Health Association, its subsidiaries and affiliated organizations (hereinafter the “Company”) absolutely prohibit the unlawful manufacture, distribution, dispensing, sale, possession or use of a controlled substance on its premises or while conducting company business off company premises. (Note: Any certified patient or registered caregiver must be in possession of their registry identification card at all times when in immediate possession of medical marijuana.) The dispensing, sale, or use of alcohol is also prohibited on its premises, unless at an approved company-sponsored event. All associates are prohibited from performing their employment duties while impaired by a controlled substance or alcohol. This includes any associate who is a certified patient under the law. This policy also covers **contingent workers** when they are on-site and/or performing services for the Company.

### Drug-free Awareness

This policy is intended to inform associates of the dangers of workplace substance abuse. In addition to deaths and accidents, absenteeism or tardiness and loss of production, other problems that substance abuse can cause on the job and impact performance also include: poor decision-making, sleeping on the job or withdrawal/hangover symptoms. The policy outlines the conditions for testing, voluntary and required reporting as well as offers information about counseling, rehabilitation or Employee Assistance Program that may be available. Any associate who has knowledge of another associate or contingent worker violating this policy should immediately contact their department leader or human resources business partner. In the enforcement of this policy, Independent Health complies with the Americans with Disabilities Act (ADA), New York Human Rights Law and other applicable state laws and regulations.

The Company requires that all **final candidates (Includes Reliance Rx transfers)** who have been selected for hire undergo a drug screening test prior to their hire date with the company. All final candidates must pass the screening as a condition of employment. This also includes any external candidate who has been selected for re-hire with the company and has not had a drug screen within one year of re-hire, will be required to submit to a new drug screen before their re-hire date. Results must be received, reviewed and approved by Human Resources prior to the individual’s first day of work. Additionally, all new hires are required to sign off upon review of this policy.

As part of the company’s program to maintain a drug and alcohol-free work environment, an associate could be required to submit to a drug and/or alcohol test. (See below Reasonable suspicion testing)

Standard test for pre-hires and associates is a 10-panel urinalysis with an expanded opiates panel which includes:

- 6-Acetylmorphine (Heroin)
- Amphetamines
- Barbiturates
- Benzodiazepines
- Cocaine
- Methadone
- Methaqualone
- Opiates
- Phencyclidine (PCP)
- Propoxyphene

The urinalysis screen will also include creatine, nitrates and pH levels with abnormal levels to be reviewed by the MRO to validate against a false negative due to potential adulteration.

#### **CONDITIONS FOR TESTING**

Testing will be conducted in the specific circumstances outlined below.

**Pre-hire testing:** All job applicants who receive a conditional offer of employment with the company are required to undergo testing for the presence of illegal drugs as a condition of employment. Contingent workers (external resources, providing limited or temporary services to the Company) will not be required to undergo testing unless they are offered employment as an associate with the Company or placed on assignments with Reliance Rx.

**Reasonable suspicion testing:** If any associate is found, or reasonably suspected to be, impaired by controlled substance or alcohol at work, they may be subject to drug or alcohol testing and transported to a company-testing facility. Accordingly, applicants and associates are required to sign a consent agreement and to submit voluntarily to a urinalysis and/or breathalyzer test at a laboratory chosen by the company and at the request of the company.

In the event there is a reasonable suspicion that an associate may be impaired by a controlled substance or alcohol while in the workplace or while performing their employment duties, the associate's manager or supervisor should immediately contact their human resources business partner. The human resources business partner will work with the manager or supervisor to determine if testing is warranted and/or the appropriate course of action. In the event the reasonable suspicion is confirmed and testing is necessary, the associate will be escorted by a company representative, and following the test, be given transportation home pending receipt of the results. The associate will be contacted by human resources regarding return to work status. In the event of reasonable suspicion of drug or alcohol abuse involving a contingent worker, the Company will work directly with the agency/vendor of the contingent worker. A confirmation of impairment or intoxication on company premises or while conducting company business off company premises, either through admission, testing, or refusal to test may result in disciplinary action up to and including termination of employment.

Examples of situations or events that could be indicators of substance abuse and constitute reasonable suspicion include, but are not limited to:

- Observed alcohol or drug use during work hours;
- Unusual or aberrant behavior or apparent physical state of impairment;
- Incoherent mental state;
- Possession, sale, or distribution of drugs and/or alcohol during working hours;
- Excessive absenteeism and/or tardiness;
- Serious accidents or incidents in which safety precautions were violated or unusually careless acts were performed; and
- Deteriorating work performance below acceptable standards not attributable to other factors

Inspection and search based upon reasonable suspicion:

Any company property including desks, files and vehicles parked on company property are subject to inspection based upon reasonable suspicion that the user or operator is involved with controlled substances or alcohol abuse.

**EFFECTS OF POSITIVE TESTING** In the event of a positive test result, the **Medical Review Officer (MRO)** from the contracted laboratory first contacts the associate or prospective associate with the results. The MRO then conducts an interview to determine if the result is due to any prescribed medication or extenuating circumstances. If there is verifiable evidence of a legally prescribed medication or any other medical reason for the confirmed positive result, the MRO has the authority to overturn this. A second drug test may be requested at that time. The MRO notifies the plan administrator designated to receive this confidential information.

### **VOLUNTARY REPORTING**

The company recognizes that alcohol and drug dependency and abuse are potential health, safety, and security problems. The company recognizes that alcoholism and drug addiction are diseases and associates needing help in dealing with such problems, or a potential drug or alcohol abuse problem, are encouraged to use our Employee Assistance Program and health insurance plans as appropriate. The company recognizes an individual may be a recovered/recovering alcoholic or drug addict and as such efforts to seek such help will not jeopardize any associate's job and will not be noted in any personnel record. For this reason, the Company will not initiate disciplinary action against any associate who meets all three of these conditions:

- Voluntarily identifies themselves as abusing drugs or alcohol before they are identified through other means;
- Obtains counseling or rehabilitation through a designated treatment program; and
- Thereafter refrains from the abuse of drugs and alcohol.

An associate seeking assistance should contact their HR Generalist or Business Partner.

Because the key to this provision's rehabilitative effectiveness is an associate's willingness to admit their problem, this provision is not available to an associate who requests protection under this provision after:

- Being asked to provide a breathalyzer test and/or urine or blood sample in accordance with this policy; or
- Having been found to have used illegal drugs through direct observation; evidence obtained from an arrest or criminal conviction; a verified positive test result.

As an individual who is currently using drugs illegally is not protected in this regard. As defined under the New York Human Rights law, the current illegal use of drugs means the illegal use of drugs that occurred recently enough to justify a reasonable belief that a person's drug use is current or that continuing use is a real or on-going problem.

**Impact to Pre-Hires:** Applicants who fail the drug test are denied employment. Such applicants may reapply for employment after a period of 12 months.

**Impact to Associates:** Associates will be subject to an assessment by a recognized treatment program in lieu of discharge whereby the associate would be required to complete any directives given by medical personnel. This may involve a leave of absence and/or any inpatient or out-patient treatment program, follow-up counseling, therapy, appointments and similar care. The associate is responsible for any such expenses of rehabilitation, although they may qualify for disability benefits during a leave of absence. Associate must authorize the release of information and assist the company in obtaining what information is needed to monitor progress in rehabilitation. An associate's refusal to participate in and satisfactorily complete any required treatment will result in discipline, up to and including termination.

Any associate who agrees to participate in a recognized drug and/or alcohol rehabilitation program as a condition of continued employment or when the associate is cleared to return to work from such program is required to submit to unannounced drug/alcohol tests for the next three (3) years at the discretion of the company. A positive result from an unannounced drug or alcohol test could result in disciplinary action up to and including termination.

#### **PROHIBITED WORKPLACE CONDUCT**

The unlawful manufacture, distribution, dispensing, sale, possession or use of a controlled substance on its premises or while conducting company business off company premises. Additionally, the distribution, dispensing, sale, possession or use of alcohol is also prohibited on its premises, unless at an approved company-sponsored event. (An associate who under the law is a certified patient or registered caregiver must be in possession of their registry identification card at all times when in immediate possession of medical marijuana.) Conduct also prohibited under this policy includes:

- Reporting to work intoxicated or impaired by alcohol or controlled substances.
- Knowingly allowing another associate to violate this policy.
- Switching or adulterating any urine or blood sample submitted for testing.
- Refusing to participate in a drug test or Breathalyzer test.
- Refusing to cooperate in an investigation under this policy.
- Failing to adhere to requirements of a treatment program.

#### **INSUBORDINATION**

Refusal to cooperate in any and all areas of this policy could lead to immediate suspension and/or termination.

#### **ILLEGAL CONDUCT**

Conduct whereby the associate has been charged with the unlawful manufacture, distribution, dispensation, sale, possession or use of an illegal substance. (Such associate is not permitted to return to

work until the occurrence is investigated and a determination is made whether discipline may be appropriate as based on the disposition of the charges

The severity of the corrective actions depends upon the circumstances of each case, and the nature of conduct for any violation as outlined under this policy and may include termination of employment.

### **CONFIDENTIALTY**

The company guarantees that all information attained from the process will only be used as part of the employment process and kept strictly confidential. Such records shall remain confidential, locked and accessible only to authorized individuals involved in the process and kept separate from the regular personnel files. Talent Acquisition will be notified of any drug screen results obtained in connection with any applicants as part of the hiring process. The results of any verified positive test on a current associate will be given to the Human Resources Business Partner for appropriate action and follow-up with the associate and the associate's manager/supervisor.

**REQUIRED REPORTING** Associates and Contingent Workers must follow reporting requirements and timelines as outlined below.

**Associates:** must report any conviction under a criminal drug statute for violations that occurred in the workplace. This includes whether working on or off company premises or while conducting company business. A report of a conviction must be made to human resources within five (5) days after the conviction as mandated by the Drug-Free Workplace Act of 1988. Any violations of this policy may result in disciplinary action up to and including termination.

**Contingent Workers:** providing services to Independent Health, its subsidiary or affiliated organization must notify the company within 10 days after receiving notice from its' [employee](#) or otherwise receiving actual notice of a conviction.

### **ANTI-RETALIATION**

The company will not tolerate retaliatory action of any kind, taken by a supervisor or associate against an associate who has followed the company's policies to notify the company's management of on-the-job drug use or safety violations under this policy.

## **Definitions**

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**Contingent workers** - Temporaries (including interns), contractors, consultants, vendors and Board members who engage in contractual relationships with the company to provide temporary staffing or consulting services for a limited period of time. They are external resources, not employed by the Company.

**Final Candidate** - external candidate who has been extended a contingent offer for employment with the Company. (This does not include associates who transfer between Independent Health, its subsidiaries and affiliated organizations, other than transfers to Reliance Rx.)

**Reliance Rx Transfer** - An internal candidate or a contingent worker with an assignment within the Independent Health family of companies (Independent Health Association, its subsidiaries and affiliated organizations) taking a position or assignment with Reliance Rx.

**Medical Marijuana** - is a plant-based medicine from the *Cannabis* species with three major active compounds: THC, CBD, and CBN.

**Medical Review Officer (MRO)** - licensed physician (M.D.) with training in substance abuse who utilizes their in-depth understanding of the protocols and chain of custody requirements involved in drug testing to protect the rights and confidentiality of both employer and employee.

## References

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### Related Policies, Processes and Other Documents

Associate Handbook

### Regulatory References

- Americans with Disabilities Act (ADA)
- New York Human Rights Law
- New York Compassionate Care Act
- Drug-Free Workplace Act of 1988

## Version Control

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### Sponsored By:

Name sponsor: Patricia Clabeaux

Title of sponsor: EVP, Chief HR Officer

Signature of sponsor:



Revision Date	Owner	Notes
5/21/2013	Amy Schweizer	Revised
4/2/2015	Jen Barr	Reviewed and Revised
10/1/2015	Jen Barr	Revised (Drug Free Workplace Act)
3/1/2016	Jen Barr	Revised
7/21/2016	Jen Barr	Revised
3/24/2017	Jen Barr	Reviewed and revised
5/10/2017	Jen Barr	Revised
10/23/2017	Jen Barr	Revised- expanded test panel
12/20/2017	Jen Barr	Revised to specify rehires

1/9/2018	Jen Barr	Revised re: Reliance
11/1/2019	Jen Barr	Updated
4/15/2020	Jen Barr	Revised contingent conversion pre-employment screening process
7/8/2020	Jen Barr	Updated (removed marijuana from screening)
11/17/2020	Jen Barr	Added Heroin and pH to screening panel
12/1/2020	Jen Barr	Creatinine and Nitrates back on the panel. Hydrocodone, Hydromorphone and/or Oxycodone and Oxymorphone included in Opiates category
6/1/2021	Jen Barr	Update to panel
7/1/2021	Jen Barr	Updated to remove DxID
4/18/2022	Jen Barr	Updated; changes to contingent workers
2/1/2023	Jen Barr	Reviewed
10/1/2023	Jen Barr	Reviewed; clarified pre-hire testing



## Hours Worked Policy

Policy Number: A20150223014  
Effective Date: 6/1/2015  
Sponsoring Department: Human Resources  
Impacted Department(s): Independent Health, its subsidiaries and affiliated organizations

**Type of Policy:**  Internal  External

**Data Classification:**  Confidential  Restricted  Public

### Applies to (Line of Business):

- Corporate (All)  
 State Products, if yes which plan(s):  MediSource;  MediSource Connect;  Child Health Plus;  Essential Plan  
 Medicare, if yes, which plan(s):  MAPD;  PDP  
 Commercial, if yes, which type:  Large Group;  Small Group;  Individual

### Excluded Products within the Selected Lines of Business (LOB)

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None

**Applicable to Vendors?** Yes  No

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### Purpose and Applicability:

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To define the hours of work and recordkeeping requirements for properly recording all hours worked for associates at Independent Health Association, its subsidiaries and affiliated organizations.

### Policy:

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Independent Health Association, its subsidiaries and affiliated organizations are committed to ensuring

its associates are paid in accordance with the Fair Labor Standards Act (FLSA) and all applicable state laws and regulations.

Independent Health Association, its subsidiaries and affiliated organizations' work week is Monday through Sunday with a standard workweek of at least 37.5 or 40 (Reliance Rx / WNY CMS) hours per week to be considered a full-time associate. Independent Health Association, its subsidiaries and affiliated organizations' have defined core business hours, necessitated by their operations and customers. However, hours of work and scheduling may be greater by department and/or subsidiary/affiliated organization based on business need.

## Payment for Hours Worked

All associates are paid on either a salaried or hourly basis.

Associates are either exempt or non-exempt. To be exempt an associate must be paid a minimum salary threshold, paid on a salary basis, and also perform exempt job duties.

Non-exempt associates will be paid for all hours worked. Non-exempt associates whose standard work week is 37.5 or 40 hours and are required to work additional hours will be paid for any additional hours worked including overtime pay, for **hours worked** over forty (40) in the defined workweek. Non-exempt associates must have prior approval to work for any additional hours beyond their regular schedule.

Nonexempt associates are entitled to overtime pay as outlined in the Overtime section of this policy. Exempt employees are not.

## Work Hours

The typical workday for non-exempt associates will be either 7.5 or 8 (Reliance / WNY CMS) hours. However, hours of work and scheduling (including alternate work schedules or consolidated/compressed workweeks as outlined below in the Alternate Work Schedules Section) for non-exempt associates may vary by department and/or affiliate and based on business need.

All eligible associates are provided with a structured paid time off program that associates can draw on for paid time away from work as outlined in the Paid Time Off (PTO) Policy.

Associates are responsible for taking a lunch (meal) period during their workday where they are free and clear from their work duties. All associates who work for a period or shift of more than six (6) hours, which extends over the **noonday meal period**, shall be allowed at least thirty (30) minutes off within that period for the meal period. Any associate, who works for a period or shift of more than six (6) hours that starts between the hours of one o'clock in the afternoon and six o'clock in the morning, shall be allowed at least forty-five (45) minutes for a meal period at a time midway between the period or shift. Any associate who works for a period or shift starting before eleven o'clock in the morning and continuing later than seven o'clock in the evening shall be allowed an **additional meal period** of at least twenty minutes. Associates are responsible for taking all lunch/break periods. Associates should not be recording their meal period as hours worked.

## Recording Hours Worked

All associates are responsible for accurately recording all actual hours/days worked in Workday. Associates who perform work for different lines of businesses, work on projects or grants, or provide services to affiliates/subsidiaries are expected to properly allocate this time in their workday time records. Failure to properly record hours of work will result in discipline up to and including termination. Managers are responsible for reviewing and approving associates worked hours, as well as ensuring associates are properly utilizing PTO for non-worked hours and maintaining a standard workweek (at least 37.5 or 40 depending on company) to be considered a full-time associate. The time a manager requires or allows an associate to work, is considered hours worked.

Actual hours worked includes any work performed remotely or while on company-required travel. It does not include meal breaks. Work includes checking and responding to work-related emails, texts, or voicemails, even if outside of the associate's regular work schedule. All non-exempt associates must have prior approval to perform any work outside of their regular work schedule.

### Non-exempt Associates

In Workday, non-exempt associates should record time in 15-minute intervals. Therefore, if an associate works at least 8 minutes and  $\leq 15$  minutes, a quarter hour (.25 in Workday) must be recorded. If an associate works  $< 8$  minutes, this is considered insignificant and should not be recorded. Likewise, this same rule applies for associates' use of PTO. Associates should charge PTO in 15-minute intervals for absences at least 8 minutes and  $\leq 15$  minutes, a quarter hour (.25 in Workday) of PTO must be recorded. Associates do not need to charge PTO for absences/tardiness  $< 8$  minutes. Department specific time and attendance requirements will apply.

## Travel Time

Hours worked generally do not include **commuting** time. (This includes for associates have the ability to work either at home and/or may come into the office for their workday, where their time spent travelling into the office at the start of their workday, or home from office at the end of their workday is normal commuting time and not included in hours worked. However, time spent traveling for work during normal work hours is considered compensable work time. (This also includes time spent traveling for work during their normal work hours, such as traveling to/between clients or if travelling between our family of companies' worksites which are a part of an associate's principal work activities.

Nonexempt associates should work with their manager when their schedule involves a partial workday on-site and how to manage their travel time with their scheduled work hours for the day.

Travel time in connection with overnight trips on Saturdays, Sundays and holidays which corresponds to associate's normal work hours may also be considered compensable work time. (e.g. if an associate regularly works 9:00 a.m. to 5:00 p.m. Monday to Friday, but travels for work from 4:00 p.m. to 10:00 p.m. on Sunday, the associate would have to be paid for the hour from 4:00 p.m. to 5:00 p.m. because that time overlaps with the hours during the days that the associate regularly works, even though Sunday is not a regular work day for that associate.) Additionally, if while on an overnight trip for work, a non-exempt associate performs work outside of their regularly scheduled work hours; the time is compensable work time.

## Required Learning, Learning & Development Time, Company Events/Activities, Volunteer Time

**Required Learning-** The attendance by associates at required or management-authorized trainings (e.g. learning center classes) and meetings are considered work time and recorded as “training and development” hours. Non-exempt associates will be compensated for any of this work time that occurs including time outside of their regular work schedule.

**Non-Required Learning & Development & Company Events/Activities-** The company supports learning and development for all its associates. Departments and their associates may consider flexible scheduling to help support associates’ participation while maintaining essential business operations. The following provides guidance on how company-sponsored learning, events and committee activities should be handled for the purposes of worked hours:

1. **Brown Bag Lunches & Lunch & Learns** - As these are generally scheduled around the **meal period**, managers should have a rotational scheduling process within their departments which permits associates to attend and utilize their unpaid meal period for any portion of the program that falls within the associates’ unpaid meal period. (Note: Associates who voluntarily choose to attend such lunches on topics, are receiving a meal period under the law.) Hours worked, coded under “training and development” time should be used for any remaining portion of the program that extends beyond their meal period.
2. **Company-chartered Committee meetings** (e.g. Got Red, Diversity Council, etc.)- Associates who are members of these committees should record their time as “Worked Hours” when attending these meetings during their workday.
3. **Committee sponsored events/activities-** (e.g. Got Red events, social, personal, networking) The company encourages associates’ participation in committee-sponsored events/activities. To provide the greatest ability for associates to attend these voluntary events/activities that may occur during the workday, when possible, committees should organize these around the **meal period** or toward the end (or at the conclusion) of the **company’s business day**. As associates are not paid for their voluntary participation in these events/activities, managers are encouraged to utilize meal breaks and flexible scheduling to enable associates to attend.

**Volunteer Time-** The company supports associates who want to volunteer their time to support our community through company sponsored opportunities or Board participation as outlined below. Associates must have permission from their supervisor if this time occurs during work hours and supervisors are encouraged to support their associates in taking advantage of these opportunities. Departments may consider flexible scheduling to help support associates’ participation while maintaining essential business operations. Associates should record this time as “Corporate Sponsored Volunteer Program” for the time spent during their regular work hours. Associates will not be paid any hours for their voluntary participation in volunteer events that extend past or occur outside of their regular workday.

1. Company-sponsored volunteer opportunities- Independent Health's RedShirt volunteer program builds strong community connections and provides a great way for associates to engage with the community and each other to play an active role in creating positive change. Our affiliate companies also provide opportunities for organizations they support in the community. Departments may also organize their own volunteer event, typically no more than one per year (recognizing the availability of many of company-wide opportunities).
2. Company designated/approved Board participation- Associates are also permitted to volunteer their time as representatives of the company through membership on community boards of directors.

Note: If you participate in a volunteer opportunity outside of the RedShirt volunteer program, please ensure you complete [this attestation form](#) and send to HealthyMe for Fitworks points (if applicable) and for our records of your Board memberships.

The above list is not exhaustive and the Company reserves the right to review specific occurrences as they arise. If an associate or manager has a question about a particular program, meeting or event, they should contact their human resources business partner or generalist.

## Hours Worked under Alternate Work Schedules

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Departments may utilize flexible scheduling and/or compressed workweeks for hourly associates as outlined below:

1. Flexible Schedule- This allows for certain positions, depending on the needs of the department/cost center to have flexible start and end times for the workday. Associates still work their standard work hours (75 or 80), but the times may vary as based upon the agreed upon schedule with department/cost center management. (E.g. a start time between 6 a.m.-9 a.m.) Upon the agreed upon schedule, managers are responsible for ensuring these schedules are updated in Workday.
2. Compressed Workweek- This allows eligible associates to work their regular workweek hours (37.5 or 40 if applicable) in less than the typical five-day schedule. E.g. an associate whose regular workweek schedule is 7.5 (or 8 hours if applicable) Monday through Friday, may be able to consolidate those hours in the workweek such as 37.5 (or 40 hours if applicable) Tuesday through Friday, having an extra day off in the workweek. Upon the agreed upon compressed work schedule, managers are responsible when approving timecards for ensuring associates are in compliance with the agreed-upon schedules..

A. PTO Usage during compressed workweek- Associates with an approved alternate work schedule will use the same number of hours scheduled to work on the day when PTO is used.

B. Holidays during compressed workweek -During the weeks when a holiday occurs, associates with approved alternate work schedules of either 7.5 hours (or 8 hours if applicable) or more will be expected to revert to the regular workweek schedule. E.g. an

associate who works a 4-day compressed workweek Tuesday through Friday, would be paid the 7.5 holidays hours (or 8 hours for 40 hour companies) if the holiday occurred on a Monday. For this reason, the associate would revert to the regular workweek schedule and be expected to work 7.5 hours (or 8 hours if applicable) Tuesday through Friday to maintain the 37.5 hour workweek (or 40 hour workweek if applicable).

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## Overtime

All non-exempt associates shall be paid **overtime pay** at one and one-half times the employee's **regular rate** of pay for hours worked in excess of forty (40) in a workweek.

All overtime hours must be pre-approved by the associate's department leader or manager. Non-exempt associates, who perform any overtime work, including any work performed remotely, must ensure all such hours are appropriately recorded.

Exempt associates are not eligible for overtime pay.

## Shift Differentials

Departments may require and schedule work shifts that extend beyond the core business hours. Based upon business necessity, departments may request non-exempt job titles receive additional compensation. The eligibility for the job titles and hourly rates as outlined below for weekday and/or weekend shifts will be reviewed and authorized by Human Resources by designating these associates as shift eligible in the system. Managers will notify associates if their shifts are eligible and that such time is to be recorded as "worked Hours-shift eligible".

### Weekday Shifts

A **weekday shift** is a minimum of 7.5 hours worked for full-time associates.

For scheduled shifts ending at 6:00 p.m. or later, a shift differential of 5% of base pay will be paid for all hours worked.

For scheduled shifts ending at 7:00 p.m. or later, a shift differential of 10% of base pay will be paid for all hours worked.

For scheduled shifts ending at 8:00 p.m. or shifts starting at 4 pm or later, a shift differential of 15% of base pay will be paid for all hours worked.

For scheduled shifts beginning at 9 p.m. or later, a shift differential of 20% of base pay will be paid for all hours worked.

### Weekend Shift

For scheduled work shifts during the weekend that may be less than 7.5 hours, the weekend shift differentials may be authorized based on supervisor approval and departmental business necessity.

For a scheduled shift where the majority of the hours worked extend past 5:00 pm on Friday, and/or for all hours worked during the weekend through 7:00 am Monday, a shift differential of 25% of base pay will be paid for all hours worked.

### **Location Differential**

Departments may require and schedule work to be performed at an alternate work location based upon business necessity and may request non-exempt job titles receive additional compensation. The eligibility for the differential will be reviewed and authorized by Human Resources by designating these associates as eligible in the system. Managers will notify associates if they are eligible and that such time is to be recorded as "Location-Differential".

## **On-call Time & Pay**

### **Non-Exempt Associates**

As part of their required job duties, it may be necessary for some non-exempt associates to perform work on an on-call basis or to be available in event of an emergency. For some positions, on-call associates are able to use their time freely and are not performing a specific assigned task and can be available for contact by cell phone if needed. Any non-exempt associate who is actually contacted to perform any work during such time should record this time as "worked hours" in Workday. Additionally, these associates will receive overtime pay for any hours worked in excess of forty (40) in a workweek.

When business needs require certain non-exempt associates to be engaged to wait (on duty) whether at the workplace or to remain so near the workplace so that they cannot use their time freely, the associate is considered working while on-call and these non-exempt associates will be compensated for this time. These associates will receive one hour of pay based on their hourly rate for each eight-hour shift (or 1/8<sup>th</sup> of an hour's pay for all on-call hours if less than an eight-hour shift) that they are required to wait on-call and associates must record this time as "on-call" hours. Any non-exempt associate who is actually contacted to perform any work during such time should record this time as "worked hours" in Workday. Additionally, they will receive overtime pay for any hours worked in excess of forty (40) in a workweek.

### **Exempt Associates**

Exempt associates who are required to be on-call may receive a lump sum payment to be determined based upon the departmental business necessity and upon approval from the Human Resources Business Partner or Generalist.

### **Call-in/Recall Pay**

An associate who by request or permission (of their supervisor) reports for work on any non-scheduled day shall be paid for at least four hours, or the number of hours in the regularly scheduled shift, whichever is less, at the basic minimum hourly wage. Associates must record this time as "call in/report to work" hours.

## Holiday Pay & Hours Worked During Pay Periods with a Holiday

Non-exempt/hourly associates that are scheduled to work on a company-designated holiday and are deemed essential by leaders may be required to work on the company-designated holiday. If the associate must work, due to business needs, they will be paid for all hours worked on the holiday and a 25 percent holiday premium applied to all hours worked. Additionally, the associate will receive 7.5 or 8 (Reliance Rx / WNY CMS) hours of holiday pay (pro-rated if part-time associate); overtime rules will apply; overtime is not paid on holiday pay. If it meets their business and staffing needs, departments also have the ability to offer any associate (whether non-exempt/hourly or exempt) who are required on a company-designated holiday to take a different day off during the same pay period as the holiday. Associates may not use a holiday as their last day worked (e.g. their term date) and they must work and/or utilize paid time off (PTO, frozen sick leave or ELT) during the pay week that contains a holiday, to be paid for the company designated holiday.

## Definitions

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**Commuting time-** time before the start of the regular workday or travel time home at the end of the workday.

**Company's business day:** The Company's core business hours are Monday through Friday, 8:00 am through 5 pm.

**Hours worked/worked hours:** includes all hours the associate works. PTO is not considered hours worked.

**Meal periods:** According to New York labor law, the noontime meal period is recognized as eleven o'clock in the morning to two o'clock in the afternoon and the additional meal period is between five and seven o'clock in the evening.

**Overtime:** all hours worked greater than (>) forty (40) hours in a work week.

**Regular rate of pay:** rate on which overtime pay is calculated. Regular rate requirements under the FLSA define what forms of payment employers include and exclude in the "time and one-half" calculation when determining workers' overtime rates.

**Weekday shifts:** shifts occurring Monday through Friday.

**Weekend shifts:** shifts occurring after 5 p.m. on Friday through 7 a.m. on Monday.

## References

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### Related Policies, Processes and Other Documents

Independent Health, or its subsidiaries and affiliated organizations' Handbook

Paid Time Off (PTO) Policy #A101213052



## Regulatory References

Title 29 USC Chapter 8 Fair Labor Standards Act

Section 162 NY Labor Law

## Version Control

### Sponsored By:

Name sponsor: Patricia Clabeaux

Title of sponsor: EVP, Chief HR Officer

Signature of sponsor:



Revision Date	Owner	Notes
6/1/2015	Jen Barr	
10/27/2015	Jen Barr	Update to shift differential section
11/25/2015	Jen Barr	Update to include holiday pay
1/1/2017	Jen Barr	Updates to shift differentials; system references
3/27/2017	Jen Barr	Updates to travel & learning/dev. time
1/1/2018	Jen Barr	Review and update
7/26/2018	Jen Barr	Review and update
2/1/2020	Jen Barr	Updates- work hours & location, brown bag lunches
7/1/2020	Jen Barr	Updated to remove Evolve
7/1/2021	Jen Barr	Updated to remove DxID
3/1/2023	Jen Barr	Reviewed & updated including holidays and hours worked
8/1/2023	Jen Barr	Updated- mgr. responsibilities, volunteer time, alternate work hours
12/1/2023	Jen Barr	Updated-location differential
5/1/2024	Jen Bar	Minor clarifications to wording; recording meal periods.

## Nondiscrimination and Anti-Harassment Policy

Policy Number: A900800211  
Effective Date: 8/1/1990  
Sponsoring Department: Human Resources  
Impacted Department(s): Independent Health, its subsidiaries and affiliated organizations

**Type of Policy:**  Internal  External

**Data Classification:**  Confidential  Restricted  Public

### Applies to (Line of Business):

- Corporate (All)
- State Products, if yes which plan(s):  MediSource;  MediSource Connect;  Child Health Plus;  Essential Plan
- Medicare, if yes, which plan(s):  MAPD;  PDP
- Commercial, if yes, which type:  Large Group;  Small Group;  Individual

### Excluded Products within the Selected Lines of Business (LOB)

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N/A

**Applicable to Vendors?** Yes  No

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### Purpose and Applicability:

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To define Independent Health Association's, its subsidiaries and affiliated organizations' commitment to providing a work environment free from all forms of discrimination, including harassment and bullying.

### Policy:

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It is the policy of Independent Health Association, its subsidiaries and affiliated organizations (hereinafter "the Company") to prohibit all forms of **unlawful discrimination** not only because it is against the law, but because it is wrong.

This includes unlawful discrimination because of a person's: race, color, creed, religion, sex (including pregnancy, childbirth or related medical conditions), sexual orientation, gender identity or expression, transgender status, age, national origin, marital status, citizenship or immigration status, physical or mental disability, prior arrest or conviction record, genetic information, predisposing genetic characteristics, domestic violence victim status, military status, protected veteran status, familial status, an individual's or a dependent's reproductive health decision making or on the basis of an individual's known relationship or association with a member or members of a protected class, or any other characteristics protected under applicable law. Employment decisions are made without regard to unlawful considerations and in accordance with Independent Health Association's Equal Employment Opportunity Policy Statement.

Further, Independent Health Association, its subsidiaries and affiliated organizations prohibit all forms of **unlawful harassment**. Unlawful harassment, as prohibited by this Policy, not only includes harassment of associates by associates, it also encompasses harassment of associates by **contingent workers** or others providing services with whom Independent Health associates come into contact in a work-related context, whether in or outside of the Company's facilities. Similarly, associates are prohibited from engaging in unlawful harassment of contingent workers or others providing services with whom they come into contact in a work-related context, whether in or outside the Company's facilities. To this end, Independent Health will endeavor to provide copies of this Policy to those entities with whom it regularly does business.

#### **PROHIBITED FORMS OF HARASSMENT**

Harassment is against the law whenever an individual is subjected to inferior terms, conditions or privileges of employment.

Harassment is a form of employment discrimination and becomes unlawful when it:

- a) Has the purpose or effect of creating an intimidating, hostile, or offensive work environment;  
or
- b) Has the purpose or effect of unreasonably interfering with an individual's work performance;  
or
- c) Otherwise adversely affects an individual's employment opportunities.

Harassment need not be severe or pervasive to be unlawful and can be any harassing conduct that consists of more than petty slights or trivial inconveniences.

Offensive conduct prohibited under this policy may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Written or graphic material that denigrates or shows hostility or aversion toward an individual or group and could include any material whether placed, displayed, stored or appearing on paper, electronically or otherwise. For example, such material transmitted via or stored in e-mail, text messages, social media or any other electronic media or device would constitute a violation of this Policy.

Similarly, this Policy prohibits harassing conduct of our associates by contingent workers, others providing services or other persons or entities with whom our associates come into contact in a work-related context either in or outside of the Company's facilities. This Policy also prohibits harassing conduct by our associates to contingent workers others providing services, or other persons or entities

with whom our associates come into contact in a work- related context either in or outside of the Company's facilities.

Associates should report harassment to management at an early stage to prevent its escalation and when practicable, associates are encouraged to inform the harasser directly that the conduct is unwelcome and must stop.

Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Additionally, under Independent Health's business conduct rules, **workplace bullying** of any kind is prohibited in the workplace.

In sum, any form of unlawful discrimination or harassment, workplace bullying or conduct violations as outlined in this policy is strictly prohibited and will not be tolerated. The Company will promptly and thoroughly investigate claims of violations of this policy and take appropriate corrective action as outlined below.

#### **SEXUAL HARASSMENT**

Sexual harassment is a form of workplace discrimination. New York Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form for employees to report alleged incidents of sexual harassment and to provide training annually. Please see the Sexual Harassment Policy # A20181008080

#### **NO ONE HAS AUTHORITY TO VIOLATE THIS POLICY**

Under no circumstances does any manager, supervisor, associate or any other person have any authority whatsoever to engage in discriminatory, harassing or retaliating conduct in violation of this Policy. If anyone claims to have such authority, or you have any questions about whether conduct that you find objectionable is authorized by the Company, please contact your Human Resources Business Partner or Generalist.

#### **REPORTING PROCEDURE**

Every person at Independent Health, its subsidiaries and affiliated organizations impacts our culture and everyone shares in the responsibility to ensure a work environment free from all forms discrimination, including harassment and bullying.

Individuals are expected to promptly report any conduct that they are subject to, or that they witness, which may violate this Policy.

The Company provides several avenues of assistance for which an associate can go to report a claim: His/her department leader, their human resources business partner, or the EVP, Chief Human Resources Officer. It is our hope that by placing different individuals in charge of this Policy, you can freely discuss your complaint or inquiry with one of them even if you may not feel comfortable doing so with the other one. Alternatively, you may initially discuss the matter with any member of management, who

will then bring your complaint to the attention of your human resources business partner or generalist. An associate may also contact the Compliance Helpline which operates 24/7/365 and can be accessed via two methods: 1-877-229-4916 or [www.reportit.net](http://www.reportit.net).

However, in all cases the matter will be brought to the attention of human resources, because of the need for consistency and centralized decision-making in the implementation and enforcement of this Policy. In the event the human resources business partner or generalist is involved in the conduct that is the subject of the complaint, a different human resources business partner or the EVP, Chief Human Resources Officer will then have overall responsibility for the investigation of the complaint and the taking of any appropriate action. It is extremely important that this be reported so that Independent Health can stop such conduct at the earliest possible time. Reporting to Independent Health is critical, because if Independent Health does not know about the conduct, it cannot act.

### **CONFIDENTIALITY**

Complaints and inquiries under this Policy will be kept confidential by the person(s) responsible for investigating these matters to the greatest extent practicable, consistent with the Company's need to conduct a thorough investigation so that it can take prompt and appropriate action.

### **INVESTIGATION**

All complaints will be thoroughly and promptly investigated. The nature and details of the investigation process will vary depending on the details of the complaint. The Company's objective in every instance is to make a fair determination of what happened so that it can take appropriate corrective action, if warranted, as soon as possible. The investigation may include, among other things interviews of witnesses and the person who is the subject of the complaint. At the conclusion of the investigation, the complainant will be notified of the findings, conclusion and any appropriate actions to be taken.

### **CORRECTIVE ACTION**

Immediate, appropriate disciplinary action will be taken on any associate who is determined to have committed discrimination, harassment, bullying, or retaliation in violation of this policy, up to and including termination of employment. Similarly, appropriate action will be taken or suggested if the employee of a customer, vendor, supplier, agency, contractor, or other entity with whom the Company does business engages in conduct that violates this Policy. In addition, when warranted, Independent Health may retrain associates concerning this Policy and what it means. Other forms of corrective action may also be called for depending on the circumstance.

### **ZERO TOLERANCE**

The Company has zero tolerance for the type of conduct described in this policy. Because of this, Independent Health may treat instances of similarly offensive conduct, which could include bullying, as a violation of this Policy, regardless of the specific wording of this Policy or technical definition in the law, and may deal with such conduct by any disciplinary measures or other forms of corrective action.

### **ANTI-RETALIATION**

The Company will not tolerate retaliatory action of any kind, taken by a supervisor or associate against an individual for exercising their rights under this Policy and any such retaliation will be considered a

violation of this policy. This includes any retaliation for inquiring about rights or seeking remedy under this Policy or reporting or complaining or threatening to make a complaint about possible violations under this policy, instituting a proceeding, or assisting in a complaint investigation, including providing truthful information to or testifying before any public body conducting an investigation, hearing or inquiry about a possible violation. Examples of retaliation include any action which would dissuade a reasonable associate from making or supporting a charge of unlawful discrimination or harassment or workplace bullying and may also include disclosing an associate's personnel files, except where such disclosure is made in the course of commencing or responding to a complaint in any proceeding under NY State Human Rights Law or any other civil or criminal action or other judicial or administrative proceeding as permitted by applicable law. Such retaliation against the Company's associates or customers, suppliers, vendors, temporary agency employees, contractors or those utilizing Independent Health's facilities or services is prohibited and will not be tolerated.

### **ASSOCIATES RESPONSIBILITIES**

**All associates** are responsible for completing any required training on this policy and reviewing any updates to this policy. Associates are expected to promptly report any conduct that they are subject to, or that they witness, which may violate this Policy.

### **ADDITIONAL RESPONSIBILITIES OF MANAGERS AND SUPERVISORS**

It is imperative that managers and supervisors set the tone for the enforcement of this policy. All management and supervisory personnel have an affirmative duty and are required to promptly report any discrimination, harassment, retaliation or sexual assault that they observe, learn about from others, or reasonably suspect has occurred with respect to an employee either to their Human Resource Business Partner or the EVP Chief Human Resources Officer.

### **Definitions**

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**Associates:** includes all people employed by Independent Health, its subsidiaries or affiliated organizations in either a full-time, part-time or per diem status. ("Workers" in Workday)

**Contingent workers:** are external resources, not employed by Independent Health Association, its subsidiaries or affiliated organizations which include: Temporaries (including interns), Consultants, Contractors, Vendors and Board Members.

**Reproductive health decision making** is defined under the law as including, but not limited to, the decision to use or access a particular drug, device or medical service. The Company affirms the privacy rights of associates' medical records and will not access an associate's personal information regarding the associate's (or the associate's dependent's) reproductive health decisions, without the associate's prior informed affirmative written consent.

**Unlawful Discrimination** includes practices such as refusal to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

**Unlawful Harassment:** unwelcome conduct that is based on any protected class.

**Workplace bullying** is repeated, health-harming mistreatment in the form of verbal abuse, threats, intimidation, humiliation and work sabotage that undermines business and services.

## References

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### Related Policies, Processes and Other Documents

Associate Handbook

Corrective Action/Progressive Discipline Policy

Equal Employment Opportunity Policy Statement

### Regulatory References

Title VII of the Civil Rights Act of 1964 (title VII)

Civil Rights Act of 1991

The Age Discrimination in Employment Act of 1967 (ADEA)

Title I and Title V of the Americans with Disabilities Act of 1990 (ADA), as amended (ADA AA)

Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA)

Family and Medical Leave Act (FMLA)

The Equal Pay Act of 1963 (EPA)

New York State Human Rights Law

New York State Labor Law Sections 201-g; 203-e

State and local congruent laws

## Version Control

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### Sponsored By:

Name sponsor: Patricia Clabeaux

Title of sponsor: EVP, Chief Human Resources Officer

Signature of sponsor:



Revision Date	Owner	Notes
8/1/1999		Revised
10/1/2004		Revised
6/15/2005		Reviewed
9/3/2014	Jen Barr	Revised
3/9/2015	Jen Barr	Revised
12/17/2015	Jen Barr	Revised (updates; separate EEO policy statement)
2/15/2016	Jen Barr	Reviewed and Revised
6/21/2017	Jen Barr	Reviewed and revised-protected class, terminology
5/11/2018	Jen Barr	Reviewed and revised (updates to reporting)
10/8/2018	Jen Barr	Reviewed and updated (reference to new NY Sexual Harassment Law)
11/11/2019	Jen Barr	Updates (NYS HRL; Labor Law)
7/1/2020	Jen Barr	Updated to remove Evolve
7/1/2021	Jen Barr	Updated to remove DxID
5/1/2022	Jen Barr	Reviewed, updated anti-retaliation section
3/1/2023	Jen Barr	Reviewed, updated, add immigration status



## Sexual Harassment Policy

Policy Number: A20181008080  
Effective Date: 10/9/2018  
Sponsoring Department: Human Resources  
Impacted Department(s): Independent Health, its subsidiaries and affiliated organizations

**Type of Policy:**  Internal  External

**Data Classification:**  Confidential  Restricted  Public

### Applies to (Line of Business):

- Corporate (All)
- State Products, if yes which plan(s):  MediSource;  MediSource Connect;  Child Health Plus;  Essential Plan
- Medicare, if yes, which plan(s):  MAPD;  PDP
- Commercial, if yes, which type:  Large Group;  Small Group;  Individual

### Excluded Products within the Selected Lines of Business (LOB)

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n/a

**Applicable to Vendors?** Yes  No

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### Purpose and Applicability:

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Independent Health and its family of companies (hereinafter “the company”) are committed to maintaining a workplace free from harassment and discrimination. Sexual harassment is a form of workplace discrimination that subjects an associate to inferior conditions of employment due to their gender, gender identity, gender expression (perceived or actual), and/or sexual orientation. Sexual harassment is often viewed simply as a form of gender-based discrimination, but the company recognizes that discrimination can be related to or affected by other identities beyond gender. Under the New York State Human Rights Law, it is illegal to discriminate based on sex, sexual orientation, gender identity or expression, age, race, creed, color, national origin, military status, disability, predisposing genetic characteristics, familial status, marital status, criminal history, or status as a victim of domestic violence. While this policy is focused on sexual harassment and gender discrimination, the methods for reporting and investigating discrimination based on other protected identities are the

same. Additional information about the company's commitment to a discrimination-free work environment can be found in the **Nondiscrimination and Antiharassment Policy #A900800211**.

The purpose of this policy is to teach associates to recognize discrimination, including discrimination due to an individual's intersecting identities, and provide the tools to take action when it occurs. All associates, managers, and supervisors are required to work in a manner designed to prevent sexual harassment and discrimination in the workplace. This policy is one component of the company's commitment to a discrimination-free work environment.

#### Goals of this Policy:

Sexual harassment and discrimination are against the law. After reading this policy, associates will understand their right to a workplace free from harassment. Associates will also learn what harassment and discrimination look like, what actions they can take to prevent and report harassment, and how they are protected from retaliation after taking action. The policy will also explain the investigation process into any claims of harassment. Associates are encouraged to report sexual harassment or discrimination by filing a complaint internally with the company. This policy will also outline how associates can file a complaint.

#### **Policy:**

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1. The company policy applies to all associates, applicants for employment and **contingent workers**.
2. Sexual harassment is unacceptable. Any associate or contingent worker who engages in sexual harassment, discrimination, or retaliation will be subject to action, including appropriate discipline for associates. In New York, harassment does not need to be severe or pervasive to be illegal. Associates and contingent workers should not feel discouraged from reporting harassment because they do not believe it is bad enough, or conversely because they do not want to see a colleague fired over less severe behavior. Just as harassment can happen in different degrees, potential discipline for engaging in sexual harassment will depend on the degree of harassment and might include education and counseling. It may lead to suspension or termination when appropriate.
3. Retaliation is prohibited. Any associate or contingent worker that reports an incident of sexual harassment or discrimination, provides information, or otherwise assists in any investigation of a sexual harassment or discrimination complaint is protected from retaliation. No one should fear reporting sexual harassment if they believe it has occurred. So long as a person reasonably believes that they have witnessed or experienced such behavior, they are protected from retaliation. Any associate of the company who retaliates against anyone involved in a sexual harassment or discrimination investigation will face disciplinary action, up to and including termination. All associates and contingent workers working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or Human Resources Business Partner. All associates and contingent workers who believe they have been a target of such retaliation may also seek relief from government agencies, as explained below in the section on Legal Protections.

4. Discrimination of any kind, including sexual harassment, is a violation of our policies, is unlawful, and may subject the company to liability for the harm experienced by targets of discrimination. Harassers may also be individually subject to liability and employers or supervisors who fail to report or act on harassment may be liable for aiding and abetting such behavior. Associates at every level who engage in harassment or discrimination, including managers and supervisors who engage in harassment or discrimination or who allow such behavior to continue, will be penalized for such misconduct.
5. The company will conduct a prompt and thorough investigation that is fair to all parties. An investigation will happen whenever management receives a complaint about discrimination or sexual harassment, or when it otherwise knows of possible discrimination or sexual harassment occurring. The company will keep the investigation confidential to the extent possible. If an investigation ends with the finding that discrimination or sexual harassment occurred, the company will act as required. In addition to any required discipline, the company will also take steps to ensure a safe work environment for the associate (s) who experienced the discrimination or harassment. All associates, including managers and supervisors, are required to cooperate with any internal investigation of discrimination or sexual harassment.
6. All associates and contingent workers are encouraged to report any harassment or behaviors that violate this policy. All associates will have access to a complaint form to report harassment and file complaints. Use of this form is not required. For anyone who would rather make a complaint verbally, or by email, these complaints will be treated with equal priority. An associate or contingent worker who prefers not to report harassment to their manager or employer may instead report harassment to the New York State Division of Human Rights and/or the United States Equal Employment Opportunity Commission. Complaints may be made to both the employer and a government agency.

Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to Human Resources.

7. This policy applies to all associates and contingent workers, and all must follow and uphold this policy. This policy is provided upon hire and available in the Company's Compliance Policy Library on our shared network.

### What Is Sexual Harassment?

Sexual harassment is a form of gender-based discrimination that is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, and the status of being transgender. Sexual harassment is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating associates differently because of their gender.

Understanding gender diversity is essential to recognizing sexual harassment because discrimination based on sex stereotypes, gender expression and perceived identity are all forms of sexual harassment. The gender spectrum is nuanced, but the three most common ways people identify are cisgender, transgender, and non-binary. A cisgender person is someone whose gender aligns with the sex they were assigned at birth. Generally, this gender will align with the binary of male or female. A transgender person is someone whose gender is different than the sex they were assigned at birth. A non-binary

person does not identify exclusively as a man or a woman. They might identify as both, somewhere in between, or completely outside the gender binary. Some may identify as transgender, but not all do. Respecting an individual's gender identity is a necessary first step in establishing a safe workplace.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment does not need to be severe or pervasive to be illegal. It can be any harassing behavior that rises above petty slights or trivial inconveniences. Every instance of harassment is unique to those experiencing it, and there is no single boundary between petty slights and harassing behavior. However, the Human Rights Law specifies that whether harassing conduct is considered petty or trivial is to be viewed from the standpoint of a reasonable victim of discrimination with the same protected characteristics. Generally, any behavior in which an associate or contingent worker is treated worse because of their gender (perceived or actual), sexual orientation, or gender expression is considered a violation of the company's policy. The intent of the behavior, for example, making a joke, does not neutralize a harassment claim. Not intending to harass is not a defense. The impact of the behavior on a person is what counts. Sexual harassment includes any unwelcome conduct which is either directed at an individual because of that individual's gender identity or expression (perceived or actual), or is of a sexual nature when:

- The purpose or effect of this behavior unreasonably interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment. The impacted person does not need to be the intended target of the sexual harassment;
- Employment depends implicitly or explicitly on accepting such unwelcome behavior; or
- Decisions regarding an individual's employment are based on an individual's acceptance to or rejection of such behavior. Such decisions can include what shifts and how many hours an associate might work, project assignments, as well as salary and promotion decisions.

There are two main types of sexual harassment:

- Behaviors that contribute to a hostile work environment include, but are not limited to, words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, gender identity, or gender expression. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory, or discriminatory statements which an associate finds offensive or objectionable, causes an associate discomfort or humiliation, or interferes with the associate's job performance.
- Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment. This is also called quid pro quo harassment.

Any associate or contingent worker who feels harassed is encouraged to report the behavior so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be discrimination and is covered by this policy.

#### Examples of Sexual Harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited. This list is just a sample of behaviors and should not be considered exhaustive. Any associate who believes they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it:

- Physical acts of a sexual nature, such as:

- Touching, pinching, patting, kissing, hugging, grabbing, brushing against another associate's body, or poking another associate's body; or
- Rape, sexual battery, molestation, or attempts to commit these assaults, which may be considered criminal conduct outside the scope of this policy (please contact local law enforcement if you wish to pursue criminal charges).
- Unwanted sexual comments, advances, or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion, or other job benefits;
    - This can include sexual advances/pressure placed on a service industry associate by customers or clients, especially those industries where hospitality and tips are essential to the customer/associate relationship;
  - Subtle or obvious pressure for unwelcome sexual activities; or
  - Repeated requests for dates or romantic gestures, including gift-giving.
- Sexually oriented gestures, noises, remarks or jokes, or questions and comments about a person's sexuality, sexual experience, or romantic history which create a hostile work environment. This is not limited to interactions in person. Remarks made over virtual platforms and in messaging apps when associates are working remotely can create a similarly hostile work environment.
- Sex stereotyping, which occurs when someone's conduct or personality traits are judged based on other people's ideas or perceptions about how individuals of a particular sex should act or look:
  - Remarks regarding an associate's gender expression, such as wearing a garment typically associated with a different gender identity; or
  - Asking associates to take on traditionally gendered roles, such as asking a woman to serve meeting refreshments when it is not part of, or appropriate to, her job duties.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace;
  - This also extends to the virtual or remote workspace and can include having such materials visible in the background of one's home during a virtual meeting.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or gender expression, such as:
  - Interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
  - Sabotaging an individual's work;
  - Bullying, yelling, or name-calling;
  - Intentional misuse of an individual's preferred pronouns; or
  - Creating different expectations for individuals based on their perceived identities:
    - Dress codes that place more emphasis on women's attire;
    - Leaving parents/caregivers out of meetings.

### Who Can be a Target of Sexual Harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. Harassment does not have to be between members of the opposite sex or gender. New York Law protects associates and all contingent workers described earlier in the policy. Harassers can be anyone in the workplace. A supervisor, a supervisee, or a coworker can all be harassers. Anyone else in the workplace can also be harassers including a contingent worker, customer, client or visitor.

Sexual harassment does not happen in a vacuum and discrimination experienced by an associate can be impacted by biases and identities beyond an individual's gender. For example:

- Placing different demands or expectations on black women associates than white women associates can be both racial and gender discrimination;
- An individual's immigration status may lead to perceptions of vulnerability and increased concerns around illegal retaliation for reporting sexual harassment; or
- Past experiences as a survivor of domestic or sexual violence may lead an individual to feel re-traumatized by someone's behaviors in the workplace.

Individuals bring personal history with them to the workplace that might impact how they interact with certain behavior. It is especially important for all associates to be aware of how words or actions might impact someone with a different experience than their own in the interest of creating a safe and equitable workplace.

#### Where Can Sexual Harassment Occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while associates are traveling for business or at employer or industry sponsored events or parties. Calls, texts, emails, and social media usage by associates or contingent workers can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

Sexual harassment can occur when associates are working remotely from home as well. Any behaviors outlined above that leave an associate feeling uncomfortable, humiliated, or unable to meet their job requirements constitute harassment even if the associate or contingent worker is at home when the harassment occurs. Harassment can happen on virtual meeting platforms, in messaging apps, and after working hours between personal cell phones.

#### Retaliation

Retaliation is unlawful and is any action by an employer or supervisor that punishes an individual upon learning of a harassment claim, that seeks to discourage a worker or contingent worker from making a formal complaint or supporting a sexual harassment or discrimination claim, or that punishes those who have come forward. These actions need not be job-related or occur in the workplace to constitute unlawful retaliation. For example, threats of physical violence outside of work hours or disparaging someone on social media would be covered as retaliation under this policy.

Examples of retaliation may include, but are not limited to:

- Demotion, termination, denying accommodations, reduced hours, or the assignment of less desirable shifts;
- Publicly releasing personnel files;
- Refusing to provide a reference or providing an unwarranted negative reference;
- Labeling an associate as "difficult" and excluding them from projects to avoid "drama";
- Undermining an individual's immigration status; or
- Reducing work responsibilities, passing over for a promotion, or moving an individual's desk to a less desirable office location.

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has:

- Made a complaint of sexual harassment or discrimination, either internally or with any government agency;
- Testified or assisted in a proceeding involving sexual harassment or discrimination under the Human Rights Law or any other anti-discrimination law;
- Opposed sexual harassment or discrimination by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of suspected harassment;
- Reported that another associate has been sexually harassed or discriminated against; or
- Encouraged a fellow associate to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

### Reporting Sexual Harassment

Everyone must work toward preventing sexual harassment, but leadership matters. Supervisors and managers have a special responsibility to make sure associates feel safe at work and that workplaces are free from harassment and discrimination. Any associate or contingent worker is encouraged to report harassing or discriminatory behavior to a supervisor, manager or to Human Resources. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, or to Human Resources.

Reports of sexual harassment may be made verbally or in writing. A written complaint form is attached to this policy if an associate would like to use it, but the complaint form is not required. Associates who are reporting sexual harassment on behalf of other associates may use the complaint form and should note that it is on another associate's behalf. A verbal or otherwise written complaint (such as an email) on behalf of oneself or another associate is also acceptable.

Associates and contingent workers who believe they have been a target of sexual harassment may at any time seek assistance in additional available forums, as explained below in the section on Legal Protections.

### Supervisory Responsibilities

Supervisors and managers have a responsibility to prevent sexual harassment and discrimination. All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing or discriminatory behavior, or for any reason suspect that sexual harassment or discrimination is occurring, are required to report such suspected sexual harassment to Human Resources. Managers and supervisors should not be passive and wait for an associate to make a claim of harassment. If they observe such behavior, they must act.

Supervisors and managers can be disciplined if they engage in sexually harassing or discriminatory behavior themselves. Supervisors and managers can also be disciplined for failing to report suspected sexual harassment or allowing sexual harassment to continue after they know about it.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

While supervisors and managers have a responsibility to report harassment and discrimination, supervisors and managers must be mindful of the impact that harassment and a subsequent investigation has on victims. Being identified as a possible victim of harassment and questioned about

harassment and discrimination can be intimidating, uncomfortable and re-traumatizing for individuals. Supervisors and managers must accommodate the needs of individuals who have experienced harassment to ensure the workplace is safe, supportive, and free from retaliation for them during and after any investigation.

### Bystander Intervention

Any associate witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is **required** to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
3. A bystander can record or take notes on the harassment incident to benefit a future investigation;
4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
5. If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

Though not exhaustive, and dependent on the circumstances, the guidelines above can serve as a brief guide of how to react when witnessing harassment in the workplace. Any associate witnessing harassment as a bystander is encouraged to report it. A supervisor or manager that is a bystander to harassment is required to report it.

### Complaint and Investigation of Sexual Harassment

Human Resources will investigate all complaints or information about sexual harassment, whether that information was reported in verbal or written form.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be confidential to the extent possible. All individuals involved, including those making a harassment claim, witnesses and alleged harassers deserve a fair and impartial investigation.

Any associate may be required to cooperate as needed in an investigation of suspected sexual harassment. The company will take disciplinary action against anyone engaging in retaliation against any associate who files complaints, supports another's complaint or participates in a harassment investigation.

The company recognizes that participating in a harassment investigation can be uncomfortable and has the potential to retraumatize an individual. Those receiving claims and leading investigations will handle complaints and questions with sensitivity toward those participating.

### Legal Protections and External Remedies

Sexual harassment is not only prohibited by the company, is also prohibited by state, federal, and, where applicable, local law.



Aside from the internal process at the company outlined in this policy, associates may also choose to pursue legal remedies with the following governmental entities and while a private attorney is not required to file a complaint with a governmental agency, you may also seek the legal advice of an attorney.

#### State Human Rights (HRL)

The New York State Human Rights Law (HRL), N.Y. Executive Law, art. 15, § 290 *et seq.*, applies to all employers in New York State and protects associates and contingent workers, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the New York State Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints of sexual harassment filed with DHR may be submitted any time within three years of the harassment. If an individual does not file a complaint with DHR, they can bring a lawsuit directly in state court under the Human Rights Law, within three years of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the company does not extend your time to file with DHR or in court. The three years are counted from the date of the most recent incident of harassment. You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR. For more information, the DHR contacts are: main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov). or [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint), or the DHR sexual harassment hotline at: 1(800) HARASS3.

#### The United States Equal Employment Opportunity Commission:

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act, 42 U.S.C. § 2000e *et seq.* An individual can file a complaint with the EEOC anytime within 300 days from the most recent incident of harassment. There is no cost to file a complaint with the EEOC. For more information, the EEOC contact is: 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with the New York State Division of Human Rights, DHR will automatically file the complaint with the EEOC to preserve the right to proceed in federal court.

#### Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

#### Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact the local police department.

#### Conclusion

The policy outlined above is aimed at providing associates at the company and contingent workers an understanding of their right to discrimination and harassment free workplace. All associates should feel safe at work.

## Definitions

**Contingent Workers** -the various types include: temporaries, interns/students (paid or unpaid), consultants and contractors, vendors. This also includes Board Members who are external resources the organization utilizes to provide Board-related services.

## References

### Related Policies, Processes and Other Documents

Complaint Form

Associate Handbook

### Regulatory References

New York State Labor Law Section 201-g

## Version Control

### Sponsored By:

Name sponsor: Patricia Clabeaux

Title of sponsor: EVP, Chief Human Resources Officer

Signature of sponsor:



Revision Date	Owner	Notes
10/8/2019	Jen Barr	Updates from State 10/19 policy
7/1/2020	Jen Barr	Updated to remove Evolve
7/1/2021	Jen Barr	Updated to remove DxID
5/1/2022	Jen Barr	Reviewed; updated retaliation provision
7/19/2022	Jen Barr	Updated to add NYS hotline
6/1/2023	Jen Barr	Updated w/NYS 2023 policy revisions

## Complaint Form for Reporting Sexual Harassment

### ***Independent Health, its subsidiaries and affiliated organizations***

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to your Human Resources Business partner or Generalist via email or if you do not know who that is or prefer, you may also submit it to the Patricia Clabeaux, EVP, Chief Human Resources Officer at: [patricia.clabeaux@independenthealth.com](mailto:patricia.clabeaux@independenthealth.com) You may also choose to mail this to any of their attention to Human Resources, 511 Farber Lakes Dr., Buffalo, NY 14221. If you are more comfortable reporting verbally, or in another manner, please contact any of the resources listed above and the company will still follow its sexual harassment prevention policy by investigating the claims. You will not be retaliated against for filing a complaint. For additional resources, visit: [ny.gov/programs/combating-sexual-harassment-workplace](http://ny.gov/programs/combating-sexual-harassment-workplace)

### **COMPLAINANT INFORMATION**

Name:

Work Address:

Work Phone:

Job Title:

Email:

Select Preferred Communication Method: Email Phone In person

### **SUPERVISORY INFORMATION**

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

### **COMPLAINT INFORMATION**

1. Your complaint of Sexual Harassment is made about:

Name:

Title:

Work Address:

Work Phone:

Relationship to you: Supervisor Subordinate Co-Worker Other

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual harassment occurred:

Is the sexual harassment continuing?  Yes  No

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

*The last question is optional but may help the investigation.*

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Rights of Employees to Express Breast Milk in the Workplace

Policy Number: A20230705038  
Effective Date: 6/7/2023  
Sponsoring Department: Human Resources  
Impacted Department(s): Independent Health, its subsidiaries and affiliated organizations

**Type of Policy:**  Internal  External

**Data Classification:**  Confidential  Restricted  Public

### Applies to (Line of Business):

- Corporate (All)  
 State Products, if yes which plan(s):  MediSource;  MediSource Connect;  Child Health Plus;  Essential Plan  
 Medicare, if yes, which plan(s):  MAPD;  PDP;  ISNP;  CSNP  
 Commercial, if yes, which type:  Large Group;  Small Group;  Individual  
 Self-Funded Services (*Refer to specific Summary Plan Descriptions (SPDs) to determine any pre-authorization or pre-certification requirements and coverage limitations. In the event of any conflict between this policy and the SPD of a Self-Funded Plan, the SPD shall supersede the policy.*)

### Excluded Products within the Selected Lines of Business (LOB)

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None.

**Applicable to Vendors?** Yes  No

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### Purpose and Applicability:

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Section 206-c of the New York State Labor Law gives all employees in New York the right to express breast milk in the workplace. This law applies to all public and private employers in New York State, regardless of size or the nature of their business. The New York State Department of Labor has developed the official policy on breast milk expression in the workplace as required by the law, ensuring

that all employees know their rights and all employers understand their responsibilities. The New York State policy is the minimum required standard, but employers are encouraged to include additional accommodations tailored to their workplace. With the information provided below, associates will learn how much time they are allowed for breast milk expression, the kind of space the company is required to provide for breast milk expression, how to notify the company about the need to express breast milk in the workplace, and how to notify the Department of Labor if these rights are not honored. The company will provide this policy to all associates when they are hired and the most recent version of this policy is available to associates at any time thereafter, both in the Associate Handbook and the Corporate Compliance Policy Library. The Company will also provide this policy to associates with its Maternity Leave packet as part of the Return-to-Work Section.

## **Policy:**

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Independent Health, its subsidiaries and affiliated organizations (hereinafter “the Company”) has adopted the New York State Model Policy on the Rights of Employees to Express Breast Milk in the Workplace.

### Using Break Time for Breast Milk Expression

The Company must provide thirty (30) minutes of paid break time for their associates to express breast milk when the associate has reasonable need to express breast milk.. In addition, associates must also be permitted to use their existing paid break time or meal time if they need additional time to express breast milk beyond the paid thirty minutes. This time must be provided for up to three years following childbirth. The Company must provide paid break time as often as an associate reasonably needs to express breast milk. The number of paid breaks an associate will need to express breast milk is unique to each associate and the Company must provide reasonable break times based on the individual. The Company is prohibited from discriminating in any way against an associate who chooses to express breast milk in the workplace. The company will not require an associate to work before or after their normal shift make up for any time used as paid break time to express breast milk.

The company will continue to follow existing federal and state laws, regulations, and guidance regarding mealtimes and paid break time regardless of whether the employee uses such time to express breast milk. For additional information regarding meal periods, breaks under state and federal law and hours worked, please see the resources at the end of the policy.

While an employer cannot require that an associate works while expressing breast milk, nothing in Labor Law 206-c prevents an associate from voluntarily choosing to do so if they want to.. Paid breaks provided for the expression of breast milk must be thirty minutes. An associate must be allowed to use regular break or meal time to take a long break if needed. Associates may also opt to take shorter paid breaks. Associates who do not work on-site have the same rights to paid time off for the purpose of expressing breast milk, as all other associates who perform their work in-person.

### Making a Request to Express Breast Milk at Work

If an associate wants to express breast milk at work and/or needs break time under this policy, they need to give the Company reasonable advance notice, generally before returning to work if the associate is on leave. This advance notice is to allow the Company the time to find an

appropriate location and adjust schedules if needed. Your written request should include your anticipated return to work date, as well as details regarding how many breaks you anticipate needing during the workday. Associates wishing to request a room or other location to express breast milk in the workplace and/or break time should do so by submitting a written request to **Human Resources at HR@independenthealth.com**.

The Company must respond to this request for a room or other location to express breast milk in writing within five days. The Company must notify all associates in writing through email or printed memo when a room or other location has been designated for breast milk expression which is outlined below.

### Lactation Room Requirements

Each Company has a room at its location that satisfies the following requirements as outlined below from the New York State Model Policy. The rooms are identified by signage and associates should work with HR on how to go about reserving the room at their company location based on their schedule needed during the workday.

In addition to providing the necessary time during the workday, the Company must provide a private room or alternative location for the purpose of breast milk expression. The space provided for breast milk expression cannot be a restroom or toilet stall. The room or other location must:

- Be close to an associate's work area
- Provide good natural or artificial light
- Be private – both shielded from view and free from intrusion
- Have accessible, clean running water nearby
- Have an electrical outlet (if the workplace is supplied with electricity)
- Include a chair
- Provide a desk, small table, desk, counter or other flat surface

There does not need to be a separate space for every nursing associate. An employer may dedicate a single room or other location for breast milk expression. Should there be more than one associate at a time needing access to a lactation room, an employer may dedicate a centralized location to be used by all associates. Any space provided for breast milk expression must be close to the work area of the associate (s) using the space. The space must be in walking distance, and the distance to the location should not significantly extend an associate's needed break time. The employer located in shared work areas, such as office buildings, malls and similar spaces may work together to establish and maintain a dedicated lactation room, as long as such space(s) are a reasonable distance from the associates using the room. Each employer utilizing this common space is individually responsible for making sure the room meets the needs of their associates. If there is not a separate room or space available for lactation, an employer may use a vacant office or other available room on a temporary basis. This room must not be accessible to the public or other associates while an associate is using it for breast milk expression. As a last resort, an available cubicle may be used for breast milk expression. A cubicle can only be used if it is fully enclosed with a partition and is not otherwise accessible to the public or other associates while being used for breast milk expression. The cubicle walls must be at least seven feet tall to insure the associate's privacy. To ensure privacy, if the lactation room has a window, it must be covered with a curtain, blind or other covering. In addition, the lactation space should have a door

equipped with a functional lock. If this is not possible (such as in the case of a fully enclosed cubicle), as a last resort, an employer must utilize a sign advising the space is in use and not accessible to other associates or the public. If the workplace has a refrigerator, the company will allow associates to use it to store breast milk. However, the company not responsible for ensuring the safekeeping of expressed milk stored in any refrigerator in the workplace. Associates are required to store all expressed milk in closed containers and bring milk home each evening. The space designated for expressing breast milk must be maintained and clean at all times. If an employer can demonstrate undue hardship in providing a space with the above requirements, the employer must still provide a room or other location - other than a restroom or toilet stall - that is in close proximity to the work area where an associate can express breast milk in privacy, that meets as many of the requirements as possible. Undue hardship is defined in the statute as “causing significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer’s business.” However, an employer may not deny an associate the right to express breast milk in the workplace due to difficulty in finding a location.

#### New York State Department of Labor Resources

If an associate believes that they are experiencing retaliation for expressing breast milk in the workplace, they can contact Human Resources. They may also contact the New York State Department of Labor’s Division of Labor Standards at 1-888-52-LABOR, email at [LSAsk@labor.ny.gov](mailto:LSAsk@labor.ny.gov), or visit the nearest Labor Standards office to personally file a complaint. A list of offices is available at [dol.ny.gov/location/contact-division-labor-standards](http://dol.ny.gov/location/contact-division-labor-standards). Complaints are confidential.

#### Federal Resources

The federal PUMP Act went into effect in 2023, expanding protections for almost all associates expressing breast milk at work. Under the PUMP Act, any covered workers not provided with breaks and adequate space for up to a year after the birth of a child are able to file a complaint with the U.S. Department of Labor or file a lawsuit against their employer. For more information, please visit [dol.gov/agencies/whd/pump-at-work](http://dol.gov/agencies/whd/pump-at-work)

**Pre-Authorization Required?** Yes  No

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## Definitions

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Enter definitions here. Remember to **bold** words throughout Policy section that require definitions. Definitions should be included when: 1) The word may be unclear or may mean something different, in different situations/contexts; 2) The word is not commonly used or known. Please refer to the Policy Writing Toolkit for additional information and direction.

## References

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### **Related Policies, Processes and Other Documents**

Associate Handbook



Hours Worked Policy #A20150223014

**Non-Regulatory references**

None.

**Regulatory References**

New York State Labor Law Section 206-c

NY Department of Labor Website on Day of Rest, Break Time, and Meal Periods: [dol.ny.gov/day-rest-and-meal-periods](http://dol.ny.gov/day-rest-and-meal-periods)

NY Department of Labor FAQs on Meal and Rest Periods:

[dol.ny.gov/system/files/documents/2021/03/meal-and-rest-periods-frequently-asked-questions.pdf](http://dol.ny.gov/system/files/documents/2021/03/meal-and-rest-periods-frequently-asked-questions.pdf)

U.S. Department of Labor FLSA FAQ on Meal and Rest Periods: [dol.gov/agencies/whd/fact-sheets/22-flsa-hours-worked](http://dol.gov/agencies/whd/fact-sheets/22-flsa-hours-worked)

New York State Policy on the Rights of Employees to Express Breast Milk in the Workplace

U.S. Department of Labor FLSA Fact Sheet on Compensation for Break Time to Pump Breast Milk

[dol.gov/agencies/whd/fact-sheets/73-flsa-breaktime-nursing-mothers](http://dol.gov/agencies/whd/fact-sheets/73-flsa-breaktime-nursing-mothers)

**Version Control**

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Sponsored By:

Name sponsor: Patricia Clabeaux

Title of sponsor: EVP, Chief HR Officer

Signature of sponsor:



Revision Date	Owner	Notes
06/19/2024	Jen Barr	Updated break periods