

WORKPLACE SEXUAL HARASSMENT POLICY OF THE PRESBYTERY OF GENEVA, A COUNCIL OF THE PRESBYTERIAN CHURCH (U.S.A.)

It is the policy of Presbytery of Geneva (“PoG”) that employees and all others acting on behalf of PoG are entitled to respectful treatment in the workplace as mandated by applicable federal, state, and local laws. This policy is intended to apply concurrently with any other policies that may apply. Being respected means being treated honestly and professionally, with each person’s unique talents and perspectives valued. A respectful workplace is more than just compliance with the law. It is a theological statement that recognizes that we are all made in the image of God and that we are called to love each other as God has loved us. A respectful workplace is a workplace that is free of inappropriate and abusive behaviors. PoG is committed to providing a workplace in which the dignity of every person is respected. It should be understood by every person that incidents of harassment, including sexual harassment, will not be tolerated at PoG.

1.0 DEFINITIONS

1.1 Employee. For the purposes of this policy the term “employee” shall cover all persons employed by PoG, including the stated clerk, presbytery staff, and the staff of Camp Whitman; applicants for employment; interns, paid and unpaid; volunteers, including, but not limited to, officers and committee members; contractors and persons conducting business, regardless of immigration status, with PoG.

1.2 Sexual Harassment. For the purposes of this policy, the term “sexual harassment” includes but is not limited to subjecting a person to: (1) inferior terms, conditions, or privileges of employment; (2) unwelcome sexual advances; (3) unwelcome requests for sexual favors; (4) unwelcome physical contact of a sexual nature; (5) or unwelcome verbal or physical conduct of a sexual nature. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity, the status of being transgender; and conduct directed at by a person(s) at another person(s) of the same or different gender(s). The intent of the person directing the conduct towards another person is not relevant to whether or not the conduct is deemed unwelcome or a violation of this policy. Unwelcome verbal or physical conduct of a sexual nature includes but is not limited to the deliberate, repeated making of unsolicited gestures or comments of a sexual nature; the deliberate, repeated display of offensive, sexually graphic materials which is not necessary for business purposes; or deliberate verbal or physical conduct of a sexual nature, whether or not repeated, that is sufficiently severe to substantially interfere with an employee’s work performance or to create an intimidating, hostile, or offensive work environment.

1.2.1 A few examples of sexual harassment **which violate** this policy and which may violate applicable laws include but are not limited to:

- Physical acts of a sexual nature, such as:

- Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
- Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual 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 or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
 - Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- 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.
- Hostile actions taken against an individual such as bullying or yelling because of that person's sex, gender, gender expression, or sexual orientation.

1.3 Retaliation. For the purposes of this policy, the term "retaliation" includes adverse actions taken against an employee or group of employees because the employee or employees reported an incident(s), makes a formal complaint, provides information, or otherwise assists in any investigation of complaints of any and all conduct prohibited by this policy including retaliation.

1.3.1 A few examples of activities that may be protected by either federal, state, or local laws and which are protected by this policy include but are not limited to:

- making a complaint of conduct that violates this policy either internally or with an outside entity which has the authority to enforce anti-sexual harassment and retaliation laws or policies;
- testifying or assisting in an investigation or other judicial process involving conduct which is alleged to have violated this policy; the Constitutions of the Presbyterian Church (U.S.A); or federal, state, or local anti-sexual harassment, anti-sexual discrimination, or anti-retaliation laws.
- opposing conduct which violates this policy by making a verbal or informal complaint of conduct which may violate this policy;
- reporting that another employee has been subjected to behavior that violates this policy; or
- encouraging a fellow employee to report behavior that violates this policy.

1.3.2 Subject to §1.3.4 below, person(s) who reported the allegedly offending conduct or who made a formal complaint regarding the allegedly offending conduct are protected from any and all retaliation regardless of the outcome of the investigation or judicial process.

1.3.3. Subject to §1.3.4 below, person(s) who provided information pursuant to an investigation or otherwise assisted in any investigation or judicial process are protected from any and all retaliation regardless of the outcome of the investigation or judicial process.

1.3.4 Any persons who are found to have intentionally made material and substantive false statements, allegations, or falsified documents in or for any report, complaint, declaration, affidavit, interview, deposition, or any other testimony in the course of the investigation or judicial process shall not be protected by §1.4 *et seq.* herein or §4.3 herein.

2.0 APPLICABILITY OF THE BOOK OF ORDER, RULES OF DISCIPLINE, AND SEXUAL MISCONDUCT POLICY

2.1 PoG is a council within the denomination of Presbyterian Church (U.S.A.) and it is governed by the Constitutions of the Presbyterian Church (U.S.A.). Nothing herein shall be interpreted as requiring PoG to take any actions expressly forbidden by the Constitutions of the Presbyterian Church (U.S.A.). To the extent that the provisions of this policy contradict the Constitutions of Presbyterian Church (U.S.A.) or would require PoG to take actions expressly forbidden by said constitutions, said constitutions shall govern PoG's actions, duties, and obligations. If a provision of this policy is found to violate the Constitutions of the Presbyterian Church (U.S.A.) or would require PoG to take an action expressly forbidden by said constitutions, said provision shall not be enforced while the remaining provisions of this policy shall remain in full force and effect.

2.2 Any complaints involving a member of PoG or a person in ordered ministry, i.e., ministers of Word and Sacrament, ruling elders, and (ordained) deacons, which rise to the level of an "offense" as defined by D-2.0203 of the Rules of Discipline may be handled in accordance with the Rules of Discipline **in addition to** any investigation and resolution of the complaint pursuant to this policy. The applicability of the Constitutions of the Presbyterian Church (U.S.A.) and the Rules of Discipline therein **do not preclude** individuals from seeking legal protections which may be available to them under applicable federal, state, or local laws and **shall not prevent** individuals from having their complaint investigated and resolved pursuant to the provisions of this policy **and** pursuant to the Rules of Discipline.

2.3 [As required by the Book of Order, PoG has a sexual misconduct policy in addition to and separate from this policy. Due to the nature of the two policies, there will be times in which the complained of conduct will violate the terms and provision of both policies. **Both policies are mandatory and must be followed even if doing so would result in two (2) separate investigations.** Any complaints that would appear on their face or after further investigation to violate both policies shall be, without exception, handled in accordance with terms and provisions of both policies even if doing so would result in two (2) separate, but contemporaneous investigations. Neither investigation shall influence the result of the other and the outcomes of said investigations are to be determined separately from the other. To do otherwise may result in a violation of applicable federal, state, and local laws, and result in a violation of the Constitutions of the Presbyterian Church (U.S.A.).]

3.0 APPLICABILITY OF FEDERAL, STATE, AND LOCAL LAWS.

3.1 Certain conduct prohibited herein, including, but not limited to, sexual harassment, discrimination, and retaliation are prohibited by applicable federal, state, and sometimes local laws. In accordance with New York law, Appendix A of this policy contains general information regarding federal, state, and local laws that may protect employees who are subjected to unlawful sexual harassment.

4.0 HARASSMENT AND RETALIATION PROHIBITED.

4.1 Any and all sexual harassment is strictly prohibited and shall not be tolerated. No employee, individual, or entity covered by this policy shall engage in sexual harassment directed at any other person or group while said employee, individual, or entity is doing business for or with PoG, including, but not limited to, paid work or unpaid work, e.g., volunteer work, regardless of the location or situation in which said business is being conducted, including, PoG sponsored events and trips.

4.2 Subject to §1.3.4 herein, retaliation against any individual or group who reports a concern, makes a formal complaint, provides information regarding a reported concern, or who otherwise assists in any investigation of harassment, unprofessional or disrespectful behavior, or retaliation is strictly prohibited and shall not be tolerated.

5.0 REPORTING VIOLATIONS.

5.1 Any employee who believes that they have been subjected to conduct prohibited by this policy by another employee at any time or by a non-employee while the employee or individual is or was doing business for or with PoG, including, but not limited to, paid work or unpaid work, e.g., volunteer work, regardless of the location or situation in which said business is being conducted, including, PoG sponsored events and trips, shall have the right to report their concerns and make a complaint regarding the allegedly prohibited conduct.

5.1.1 Any non-employee of PoG who believes they have been subjected to conduct prohibited by this policy by an employee or individual or entity while said employee or individual or entity is or was doing business for or with PoG, including, but not limited to, paid work or unpaid work, e.g., volunteer work, regardless of the location or situation in which said business is being conducted, including, PoG sponsored events and trips, shall have the right to report their concerns and make a complaint regarding the allegedly prohibited conduct.

5.2 All concerns or complaints shall be reported to the person's immediate supervisor, if the person alleged to have violated this policy is the person's immediate supervisor, to the head of presbytery staff, if the head of presbytery staff is unavailable, to the Stated Clerk. In the event the concern or complaint is regarding the Stated Clerk, the complaint shall be reported to the Moderator of the Presbytery and the Chair of the General Council. A model complaint is attached to this policy as Appendix B. A deficient complaint shall not be grounds for not investigating any complaints made under this policy.

If the person making the complaint is more comfortable reporting verbally or in another manner, the Stated Clerk or the person receiving the verbal complaint shall immediately complete the complaint for the person, provide them with a copy, and immediately provide the complaint to the appropriate

party, whether that is a supervisor, head of presbytery staff, or to the Stated Clerk as provided for above.

5.3 Immediately upon the receipt of a complaint, the supervisor or the person who received the complaint shall provide the complaint to Stated Clerk unless the concern or complaint is regarding the Stated Clerk, in which case, the complaint shall be provided to the Moderator of the Presbytery and the Chair of the General Council.

6.0 INVESTIGATIONS.

6.1 All investigations conducted upon receipt of a complaint as set forth herein shall be considered to be separate and independent of the judicial processes of the Presbyterian Church (U.S.A.). The jurisdiction of the councils of the Presbyterian Church (U.S.A.) to investigate and resolve a complaint which alleges conduct which rises to the level of an “offense” as defined by D-2.0203 of the Rules of Discipline shall not be considered to be the exclusive means by which the alleged conduct is to be investigated or resolved nor shall it preclude a separate investigation and resolution of the complaint pursuant to the provisions of this policy. Therefore, if a complaint is determined to fall within the judicial processes of the Presbyterian Church (U.S.A.) as set forth in the Rules of Discipline, and a judicial commission is formed pursuant to G-3.0109a., the formation of said judicial commission shall not terminate an already ongoing investigation and prevent its resolution pursuant to this policy nor shall it preclude the start and completion of a separate investigation and resolution of said complaint pursuant to this policy.

6.2 Upon the receipt of a complaint pursuant to §5.3, the person responsible for receiving the complaint pursuant to §5.3 herein shall immediately inform the chair(s) of the Committee on Operations and shall immediately provide them with a complete copy of the complaint and any accompanying materials. The chair(s) of the Committee on Operations shall form from the Committee on Operations members a Response Team comprised of at least six (6) members including the chair(s). The Response Team shall have at least three ruling elders and three ministers of Word and Sacrament; and, at least three, but no more than four, members of the team shall be women. [The Response Team shall not include any employees of the PoG or any person(s) who received the complaint being investigated pursuant to this policy to the extent such exclusion is allowed under the Book of Order.] The team shall investigate and resolve said complaint in accordance with this policy.

6.2.1. Upon receiving a complaint, the team shall immediately and thoroughly investigate said complaint and take appropriate action to avoid future violations. Investigations shall include speaking with the employee, speaking with the alleged harasser, interviewing witnesses, collecting and reviewing any related documents, and the preparation of a final, written report.

6.2.1.1 Standard of Investigation. The team shall first determine whether it is more likely than not that the alleged conduct or behavior occurred; and, then it shall determine whether it is more likely than not that said conduct violated this policy. When evaluating the reasonableness of accuser’s accusations against the accused, and whether or not it is more likely than not that the accused’s conduct violated this policy, the team shall review, evaluate, and consider all evidence and testimony from the perspective of the accuser taking into account the accuser’s sex; sexual orientation; gender identity; gender expression; and, whether the accuser is transgender. The fact that the accused did not intend to harass the accuser, sexually or otherwise, or did not intend for their conduct or behavior to violate this policy are not relevant to determining whether said conduct or behavior violated this

policy. Upon finding that it is more likely than not that the conduct occurred and violated this policy, the Response Team is required to take corrective action. In determining whether the alleged conduct occurred and violated this policy, the team shall address each alleged act in a complaint as separate and unique from other alleged actions.

6.2.1.1.1 All findings shall be made in writing and shall be included in the Response Team's final, written report. The team's final report shall include:

- A list of all documents reviewed, along with a detailed summary of relevant documents;
- A list of the names of those interviewed, along with a detailed summary of their statements;
- A detailed timeline of the events;
- A summary of prior relevant incidents, reported and unreported; and,
- The basis for the decision and final resolution of the complaint, including any corrective actions.

The written report shall be submitted to the Committee on Operations for the Presbytery of Geneva.

6.2.1.1.2 All written, final reports shall be kept along with complete copies of all documents reviewed and other associated documents such as notes from interviews in a secure and confidential location, i.e., the confidential personnel files of Presbytery of Geneva.

6.2.1.2 Corrective action (up to and including termination) will be taken against those violating this policy. When considering the nature of the corrective action, the Response Team shall take into account the nature of the conduct, whether the conduct involved one discrete action or was a series of actions; the present and future safety and well-being of PoG's employees; and, the likelihood of retaliation by the offending person(s). [To the extent reasonably possible, when determining corrective action, the Response Team shall not consult with person who received the complaint being acted upon or any employee of PoG outside of the Presbytery Leader or the Stated Clerk.]

6.2.1.3 The Response Team will timely and reasonably inform the parties of the status of the investigation.

6.2.1.3.1 Upon completion of the investigation, the Response Team shall inform person(s) who reported, the person(s) subjected to the offending conduct, and the person(s) about who the complaint was made of the final determination and the team shall immediately implement all corrective actions set forth in the final report.

6.2.1.3.2 If it has not done so already, regardless of the outcome of the investigation, the Response Team shall inform the person(s) who reported and the person(s) subjected to the conduct of their legal protections and their potential right to seek redress under federal, state, or local laws in writing.

6.2.1.4 To the extent permitted, the Response Team shall not share the specific details of any corrective action(s) taken. The team shall inform the Committee on Operations of all investigations and the corrective actions taken by the team by submitting a written, final report to Committee on Operations at its meeting immediately following the conclusion of the investigation. The Committee on Operations may receive the team's final, written report in an executive session, and shall include a

summary of the report in its official minutes. The summary shall include a summary of the complained conduct, whether the Response Team determined that the conduct had indeed occurred and whether said conduct violated this policy and whether action was taken based on those findings. To the extent possible, no information which might be used to identify the individuals involved should be included in the summary. Pursuant to G-3.0109 b., the Committee on Operations “may rescind or amend the actions of the [team] in the same way actions of [a committee] are modified.” G-3.0109b.

APPENDIX A OF THE PRESBYTERY OF GENEVA'S WORKPLACE SEXUAL HARASSMENT POLICY

Legal Protections And External Remedies

Sexual harassment is not only prohibited by the Presbytery of Geneva but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the Presbytery of Geneva and the judicial processes of the Presbyterian Church (U.S.A.) employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year (three years beginning Aug. 12, 2020)** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **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 Presbytery of Geneva does not extend your time to file with DHR or in court. The one year or three years is counted from 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.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will 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. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 22 Reade Street, 1st Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Contact the Local Police Department

If the sexual harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

APPENDIX B: THE PRESBYTERY OF GENEVA'S WORKPLACE SEXUAL HARASSMENT POLICY COMPLAINT FORM

New York State Labor Law requires all employers to adopt a sexual harassment prevention policy that includes a complaint form to report alleged incidents of sexual harassment. This complaint form is for the reporting of any conduct the reporting party has a good faith belief violates the Presbytery of Geneva's sexual harassment policy.

If you believe that you have been subjected to harassment, you are encouraged to complete this form and submit it to your immediate supervisor or the presbytery head of staff or the Stated Clerk of the Presbytery of Geneva. In the event that the complaint is against the Stated Clerk, this form is to be submitted to the Moderator of the Presbytery and the Chair of the General Council. The complaint may be scanned and e-mailed to the aforementioned persons so long as it is signed and dated and the person acknowledges receipt of said complaint. **You will not be retaliated against for filing a complaint in good faith. Please be aware that anti-retaliation protections may not apply to any person(s) who make intentionally false allegations of harassment.**

If you are more comfortable reporting verbally or in another manner, the Stated Clerk or the person receiving the verbal complaint shall complete this form for you, provide you with a copy, and follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

The submission of this form, by itself, is not guaranteed to initiate any action being taken under the Rules of Discipline of the Presbyterian Church (U.S.A.). The Rules of Discipline of the Presbyterian Church (U.S.A.) are separate and independent of the Presbytery of Geneva's Workplace Sexual Harassment Policy. If it is the intent of the reporting party to report workplace conduct which the reporting party believes in good faith violates the Presbytery of Geneva's Workplace Sexual Harassment Policy *and* to submit a complaint to initiate the judicial processes of the Presbyterian Church (U.S.A.), the reporting party should submit a separate, written complaint to the Stated Clerk of the Presbytery of Geneva in addition to completing and submitting this complaint as provided for herein and above.

For additional resources, visit: 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 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) conduct occurred: _____

Is the 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?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

Signature: _____

Date: _____

Instructions for Employers

If you receive a complaint about alleged sexual harassment, follow your sexual harassment prevention policy.

An investigation involves:

- Speaking with the employee
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

Document the findings of the investigation and basis for your decision along with any corrective actions taken and notify the employee and the individual(s) against whom the complaint was made. This may be done via email.