

Anti-Discrimination and Anti-Harassment Policy

(Adapted from the Office of General Assembly and Presbyterian Mission Agency)

A. Equal Employment Opportunity/Anti-Discrimination Policy Coverage

The policy applies to all employment policies and practices including recruiting, selection, benefits, compensation, performance reviews, promotion, transfers, corrective action, training, and separation will be administered without regard to race, color, national origin, gender, pregnancy or related conditions, age, marital status, sexual orientation, gender identity/expression, self-identified or perceived sex, transgender status, creed, protected disability status, citizenship status, genetic information, uniformed service (e.g. U.S. Armed Forces or National Guard), status as a Vietnam Era or special disabled veteran in accordance with applicable federal, state and local laws, or veteran status, or religious affiliation (except where a category is determined to be a bona fide occupational qualification) or any other characteristic protected by federal, state or local law. The Employer strongly opposes and does not tolerate any form of discrimination by or towards its employees especially when discrimination is based upon categories protected by federal, state or local law.

B. Anti-Harassment Policy

The Employer strongly opposes and does not tolerate any form of harassment (which can be a form of discrimination) and unwelcome conduct by or towards its employees, especially when victims are harassed because they are in a category protected by local, state or federal law (ex. race, color, national origin, etc.). This policy includes, but is not limited to, harassing comments, behaviors, or conduct based upon the protected categories (e.g. race, color, national origin, and so forth). Harassment includes sexual harassment, which is a form of sexual discrimination and is illegal under federal, state and local laws. Sexual harassment includes unwelcome sexual advances, unwelcome requests for sexual favors and other unwelcome verbal, non-verbal or physical conduct or communication of a sexual nature when:

Quid Pro Quo Harassment

A submission to such conduct or communication is made either explicitly or implicitly a term or condition of employment (ex. “Sleep with me and I will get you a promotion.”); Submission to or rejection of such conduct or communication by an individual is used as a basis for employment decisions affecting such individual (“If you do not come to my hotel room for sex, I will make sure you are fired!”).

Hostile Environment Harassment

Such conduct or communication has the purpose or effect of unreasonably interfering with an individual’s employment or creating an intimidating, hostile or offensive work environment (ex. telling offensive sexual jokes loudly and more than once near someone’s office; rubbing against someone more than once “accidentally”).

Sexual harassment can occur between males and females or between persons of the same sex or gender. Harassment that occurs because of the victim's gender identity or gender expression (including transgender status) is also unlawful

Examples of harassing behavior (See Appendix A) may include, but are not limited to:

- insulting, obscene or profane language (ex. Mocking someone with a disability; calling someone a “geezer.”);
- unwelcome and insulting comments about physical appearance, manner of dress, attire (ex. “Wow - you look hot today!” “Why don’t you learn to speak English?”);
- unwelcome jokes, innuendo; unlawful sexual stereotyping; displaying inappropriate cartoons, photographs, computer screen savers or wallpaper;
- unwelcome and/or inappropriate touching of another employee's body (ex. touching someone in a sexual way; laying your hands on a pregnant woman's abdomen without permission.); and
- any other harassing behavior that is abusive or offensive to another reasonable person and which creates an intimidating, hostile, or offensive working environment. Harassing communications can be verbal, written or electronic (ex. email or text messages).

The scope of this policy is not limited to the physical location of the office where an employee works and relationships with other employees at this location. It includes contacts anywhere in connection with doing the work of the Presbytery and Presbyterian Church (USA) and relationships with employees, volunteers, and members of the PCUSA, councils, entities, committees, and/or related entities. In other words, discrimination and harassment can happen outside the employee's assigned office (ex. a local congregation).

C. Reporting Discrimination or Harassment

Any employee who is a victim of or witness to discrimination, harassment, or perceived discrimination or harassment, must report it immediately. Reports may be verbal or written and may be signed or anonymous.

Supervisors and managers who witness incidents of harassment should tell the harasser to stop the harassing behavior and report the incident(s) immediately. Similarly, supervisors and managers who receive reports of harassment should immediately report the incidents to the Leadership Commission.

D. Reprisal and Retaliation are Strictly Prohibited

Employees can submit reports, complaints or questions, act as witnesses, participate in investigations or proceedings, oppose harassment or encourage fellow employees to report harassment in good faith without fear of retaliation. Retaliation against a person for submitting a report, complaint or asking a question or giving information about discrimination or harassment, whether that individual is a victim or witness to it, is a serious violation of this policy and will be treated as a separate and distinct cause for complaint and may result in more strict corrective action

than the harassment or discrimination itself. Examples of retaliation include, but are not limited to: termination, demotion, threats, unwarranted poor annual evaluation, negative reference or any other act that is intended or does dissuade an employee from making a report or complaint of harassment or supporting a complaint or report of harassment by a co-worker. In addition to being a violation of this policy, retaliation is also unlawful. Any acts of retaliation must be reported immediately and will be promptly investigated.

E. Procedures for Reporting Any Form of Discrimination, Harassment or Retaliation

The Employer is committed to providing a work environment that is free from all forms of unlawful discrimination and inappropriate conduct that can be considered harassing, coercive, disruptive or retaliatory. Employees who believe that they have experienced discrimination or harassment, whether the person who is discriminating or harassing the employee is a colleague, co-worker or third party (ex. Board member, volunteer), should review this policy and make a report without fear of retaliation. The Employer values and respects its employees, and it takes seriously all reports, complaints or questions of discrimination or harassment, and the Employer will not tolerate unlawful or improper conduct by any of its employees or by any third-party, non-employee toward its employees.

An employee who wishes to report or has a question related to discrimination or harassment, as defined in this policy should immediately submit a complaint or report or question, using the process described in this policy. However, employees are not limited or restricted to submitting a formal complaint form.

F. What May Be Included in a Complaint or Report

If you are the employee submitting a complaint, report or have a question about discrimination or harassment you are encouraged, but not required, to write down your complaint, report or question in as much detail as possible, including names, dates, witnesses, and incidents. Please sign and date any written report and submit it as described below in section G.

G. How to Submit Reports and with Whom

1. If the report, complaint or question is not about the Presbytery Pastor or the Stated Clerk, you may submit it to either of them.
2. If the report, complaint or question is about the Presbytery Pastor or Stated Clerk, you may submit it to the Synod Executive of the Synod of the Southwest.
3. Reports, complaints or questions about harassment or discrimination by persons who are not employed by the Employer may be made to either the Presbytery Pastor or Stated Clerk.
4. Reports, complaints or questions may be verbal or written, with your name attached or anonymous. Anonymous reports will require independent verification.

H. Duty of Supervisors and Managers to Report Discrimination and Harassment

Supervisors and managers who witness discrimination or harassment or who receive reports of discrimination or harassment should:

1. If they witness discrimination or harassment, tell the person who is engaging in the discrimination or harassment to stop.
2. Immediately report what they witness or the information they receive to the Leadership Commission.

I. Investigation and Appeal Process

1. If the report, complaint or question is written, either the Presbytery Clerk or Stated Clerk will send the accused and the appropriate executive-level supervisor a copy. If the report, complaint or question is oral, a summary will be provided.
2. The Presbytery Pastor and/or Stated Clerk will determine if the accuser or the accused needs to be placed on administrative leave until the investigation or the process is concluded.
3. The Presbytery Pastor and/or Stated Clerk will evaluate the report, complaint or question to determine if the information provided warrants an investigation. If so, The Presbytery Pastor and/or Stated Clerk will investigate the allegations. A confidential written report from the investigators will be provided to the Leadership Commission.
4. The Leadership Commission will issue a decision setting forth its conclusions regarding whether policy(ies) was or were violated and, if so, any appropriate disciplinary or other corrective or remedial action. A summary of the Commission's decision will be given to the parties. If this decision is not timely appealed, it is final.
5. Either party may appeal the Commission's decision to the Presbytery Pastor, Stated Clerk or their designee (who is selected by the Leadership Commission) within five (5) business days of the date of the decision. The appeal should: (1) be made in writing and submitted to the Presbytery Pastor and Stated Clerk and, (2) include in detail the basis for the appeal of the Commission's decision; and, (3) include relevant documents or other materials. The Executive or designee will decide the appeal and issue a decision. A summary of the decision will be given to the parties. The decision of the Executive or designee is final.
6. If the party submitting a report or complaint reports directly to the Executive and the report or complaint is about the Executive, the party may appeal the Commission's decision to the Executive of the Synod of the Southwest, who will be asked to mediate or initiate a judicial complaint process.
7. Retaliation against an individual for reporting harassment or discrimination, whether that person is a victim of harassment or discrimination or witness to it, is a serious violation of this policy and will be treated as a separate and distinct cause for complaint and may result in more strict

disciplinary action than as the harassment or discrimination itself. No employee is allowed to retaliate against anyone who submits a report or who is a witness in a matter or otherwise involved in a report of discrimination or harassment. Any acts of retaliation must be reported immediately to the Presbytery Pastor and/or Stated Clerk and it will be promptly investigated.

J. Additional Procedural Matters

1. If counseling for either party is recommended by a final decision, counseling may be obtained through the Employee Assistance Program (EAP), or through mental health coverage.
2. If it is determined that inappropriate conduct did occur and the accused is a Minister of Word and Sacrament, the final decision and any related corrective action shall not be considered exclusive of any actions that may be taken under the Book of Order. The Employer will inform and fully cooperate with the midcouncil of jurisdiction.
3. Any investigation, report, question, complaint, documents, administrative records, reports, findings, responses, and appeal materials that are related to the investigation, reporting, and appeal process are confidential. All parties, witnesses, and participants shall respect the confidentiality of the process and will not discuss the fact of the investigation, or any matters known to them or discussed by them in an investigation, to anyone except those responsible for the investigation and appeal process or legal counsel. All paperwork and materials related to the process will be placed in the care and custody of the Stated Clerk. Breach of confidentiality by participants in the investigation or decision-making or appeal process can result in disciplinary action, up to and including termination of employment.
4. Implementation of this procedure by an employee does not limit the right of the Employer to proceed with any disciplinary action related to the reporting employee, as long as that action is not in retaliation for the use of the procedure

Additional Material

Appendix A: Sample Actions that Describe Harassment

Appendix B: US EEOC Definition of Harassment

Appendix A: Sample Actions that Describe Harassment

Sample actions of conduct that could be prohibited in a “Preventing Harassment” policy may include, but are not limited to:

- Spreading malicious rumors, gossip, or innuendo.
- Excluding or isolating someone socially.
- Intimidating a person.
- Undermining or deliberately impeding a person’s work.
- Physically abusing or threatening abuse.
- Removing areas of responsibilities without cause.
- Constantly changing work guidelines.
- Establishing impossible deadlines that will set up the individual to fail.
- Withholding necessary information or purposefully giving the wrong information.
- Making jokes that are ‘obviously offensive’ by spoken word or e-mail.
- Intruding on a person’s privacy by pestering, spying or stalking.
- Assigning unreasonable duties or workload which are unfavorable to one person (in a way that creates unnecessary pressure).
- Underwork – creating a feeling of uselessness.
- Yelling or using profanity.
- Criticizing a person persistently or constantly.
- Belittling a person’s opinions.
- Unwarranted (or undeserved) punishment.
- Blocking applications for training, leave or promotion.
- Tampering with a person’s personal belongings or work equipment.
- Using racist slang, phrases, or nicknames.
- Making remarks about an individual’s skin color or other ethnic traits.
- Displaying racist drawings, or posters that might be offensive to a particular group.
- Making offensive gestures.
- Making offensive reference to an individual’s mental or physical disability.
- Sharing inappropriate images, videos, e-mails, letters, or notes in an offensive nature.
- Offensively talking about negative racial, ethnic, or religious stereotypes.
- Making derogatory age-related comments.
- Wearing clothing that could be offensive to a particular ethnic group.

Appendix B: US EEOC Definition of Harassment

Harassment

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).

Harassment is unwelcome conduct that is based on race, color, religion, sex (including sexual orientation, gender identity, or pregnancy), national origin, older age (beginning at age 40), disability, or genetic information (including family medical history). Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. 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.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

Offensive conduct 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. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
- The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.
- Unlawful harassment may occur without economic injury to, or discharge of, the victim.

Prevention is the best tool to eliminate harassment in the workplace. Employers are encouraged to take appropriate steps to prevent and correct unlawful harassment. They should clearly communicate to employees that unwelcome harassing conduct will not be tolerated. They can do this by establishing an effective complaint or grievance process, providing anti-harassment training to their managers and employees, and taking immediate and appropriate action when an employee complains. Employers should strive to create an environment in which employees feel free to raise concerns and are confident that those concerns will be addressed.

Employees are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Employees should also report harassment to management at an early stage to prevent its escalation.

Employer Liability for Harassment

The employer is automatically liable for harassment by a supervisor that results in a negative employment action such as termination, failure to promote or hire, and loss of wages. If the supervisor's harassment results in a hostile work environment, the employer can avoid liability only if it can prove that: 1) it reasonably tried to prevent and promptly correct the harassing behavior; and 2) the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer.

The employer will be liable for harassment by non-supervisory employees or non-employees over whom it has control (e.g., independent contractors or customers on the premises), if it knew, or should have known about the harassment and failed to take prompt and appropriate corrective action.

When investigating allegations of harassment, the EEOC looks at the entire record: including the nature of the conduct, and the context in which the alleged incidents occurred. A determination of whether harassment is severe or pervasive enough to be illegal is made on a case-by-case basis.

If you believe that the harassment you are experiencing or witnessing is of a specifically sexual nature, you may want to see EEOC's information on [sexual harassment](#).