**Presbyteries of Grand Canyon and de Cristo**

**Anti-Harassment Policy[[1]](#footnote-1)**

**Anti-Harassment Policy**

The Presbytery[[2]](#footnote-2) strongly condemns and does not tolerate any form of harassment 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 (e.g., race, color, national origin, sex (including sexual orientation, gender identity or pregnancy), age (beginning at 40), disability or genetic information (including family medical history).

**Unlawful Actions**

Harassment becomes **unlawful** where either or both of the following conditions occur -

Enduring the offensive conduct becomes a condition of continued employment – officially called ***Quid Pro Quo Harassment*** (e.g., “sleep with me and I will get you a promotion”);

- or -

Conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive – officially called a ***Hostile Working Environment*** (e.g., telling offensive sexual jokes loudly and more than once near someone’s office; rubbing against someone more than once “accidentally”).

Unlawful behavior should be reported to law enforcement.

**Sexual Harassment**

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.

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 also Appendix A) may include, but are not limited to:**

* insulting, obscene or profane language (e.g., Mocking someone with a disability; calling someone a “geezer”);
* unwelcome and insulting comments about physical appearance, manner of dress, attire (e.g., “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 person’s body (e.g., touching someone in a sexual way; laying your hands on a pregnant woman’s abdomen without permission).

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, electronic (e.g., email or text messages), or social media (e.g., X, FB, IG).

**Scope of Policy**

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 (e.g., a local congregation, community event).

**Reporting Harassment**

Any employee who is a victim of or witness to harassment, or perceived harassment, must report it immediately as outlined in this policy. 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.

**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 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 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.

**Procedures for Reporting Any Form Harassment or Retaliation**

The Presbytery is committed to providing a work environment that is free from all forms of unlawful and/or inappropriate conduct that can be considered harassing, coercive, disruptive or retaliatory.

Employees who believe that they have experienced harassment, whether the person who is harassing the employee is a colleague, co-worker or third party (e.g., congregation member, service worker), should review this policy and make a report without fear of retaliation. The Presbytery values and respects its employees, and it takes seriously all reports, complaints or questions of discrimination or harassment, and the Presbytery 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.

**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. If written (and not an anonymous report), please sign and date the report and submit it as described below in the next section.

**How to Submit Reports and with Whom [[3]](#footnote-3)**

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 Presbytery 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. All reports will be investigated and appropriate action taken.

**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 or Combined Personnel Team.

**Investigation and Appeal Process [[4]](#footnote-4)**

1. If the report, complaint or question is written, the Stated Clerk will send the accused and the Presbytery Pastor a summary. 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 paid 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 or Combined Personnel Team.

4. The Leadership Commission or Combined Personnel Team will issue a decision setting forth its conclusions regarding whether the policy, or policies, were violated and, if so, any appropriate disciplinary or other corrective or remedial action. A summary of the decision will be given to the parties. If this decision is not timely appealed, it is final.

5. Either party may appeal the 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 decision; and, (3) include relevant documents or other materials.

The Executive (or Combined Personnel Team in instances when the Presbytery Pastor or Stated Clerk is accused) 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 CPT 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 (or the Combined Personnel Team if either the Presbytery Pastor and/or Stated Clerk is the accused), and it will be promptly investigated.

**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 insurance coverage.[[5]](#footnote-5)

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, as outlined in the Rules of Discipline.

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.

If the Stated Clerk is the accused, all paperwork and related materials will be forwarded to the Synod executive of the Synod of the Southwest.

4. Implementation of this procedure by an employee does not limit the right of the Presbytery 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 procedures outlined in this anti-harassment policy.

**Additional Material for Church Support**

**Appendix A: Sample Actions that Describe Harassment**

Sample actions of conduct that are prohibited 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.
* Harassing communications can be verbal, written, electronic (e.g., email or text messages), or social media (e.g., X, FB, IG).

**Appendix B: US EEOC Definition of Harassment and Related Information**

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.

**Appendix C: Steps to Prevent Harassment**

**Create a Safe Environment**

**Be vocal.** Let your staff and congregation know you take harassment seriously. Those who work at and attend the church should feel safe if they need to come forward with an accusation of harassment.

**Define policies.** If there aren’t policies in place concerning harassment in your church, create them now. The church must be prepared if an allegation surfaces. Provide awareness training. Consider using an appropriate video to enhance discussion.

**Keep a Safe Environment**

**Practice Accountability.** One way to keep your staff accountable is to stay aware of any change in behavior or individuals. Declining performance, increased absences, inability to concentrate and/or changes in work habits could indicate an employee being harassed.

**Check your insurance.** Make sure your church insurance covers employment related claims, such as a harassment claim.

**Address allegation.** When an allegation surfaces at your church, remove the accused from contact with the claimant during the investigation. The claimant should also be offered pastoral assistance, including counseling. Contact the Presbytery for advice on next steps.

NOTE: Current Harassment policy is found on page 16 of the Combined Presbyteries Personnel Poicly (3/12/15). This policy will need to be addressed in the section “The Work Place // Harassment Free Policy” on page 16. Editing the current personnel policy to include this material will be delegated to the Combined Personnel Team.

1. Footnotes suggest ways a session could adapt this policy to create an Anti-Harassment Policy for its church. Appendix A – C provide additional guidance for individual sessions and churches. [↑](#footnote-ref-1)
2. Replace Presbytery with Church or name of church. [↑](#footnote-ref-2)
3. The Session would indicate who would receive reports to harassment within each church. [↑](#footnote-ref-3)
4. The Session would indicate who would do the investigation and appeal within each church. [↑](#footnote-ref-4)
5. All Presbytery employees are covered by the Board of Pensions and, therefore, have access to both EAP and mental health insurance coverage. Congregations will need to identify what resources they could make available to employees, volunteers and/or members. [↑](#footnote-ref-5)