

## Personnel Management

Policy Number: 07.18

Effective Date: Sept. 20, 2015

### 1. Title:

Sexual and Other Forms of Harassment

### 2. Purpose:

2.1 FPCC is committed to creating and maintaining a professional work environment in which all individuals are treated with respect and dignity. This includes promoting an atmosphere that:

- Supports equal employment opportunities (see also OPS 07.19).
- Prohibits unlawful discriminatory practices, including harassment.
- Prohibits bullying.

2.2 This policy was developed to ensure that:

- All FPCC employees can work in an environment free from morally wrong and unlawful harassment, discrimination, and retaliation, as well as bullying.
- Children and youth who are part of our church community or who participate in children's /youth activities or care are protected from abuse.

2.3 This OPS specifies and defines FPCC's policy regarding sexual and other types of morally and legally prohibited harassment and bullying in the workplace, as well as and abuse of minors or adults who lack mental capacity.

### 3. Policy:

3.1 The Gospel of Jesus Christ calls upon all persons to respect the worth and dignity of others. In keeping with the call of the Gospel, and the provisions of federal, state, and local civil rights laws, it is the policy of FPCC, as well as of the Presbyterian Church (U.S.A.) and the Presbytery of the New Covenant, that all employees should enjoy a working environment free from all forms of discrimination, including sexual harassment or harassment based on the race, ethnicity, color, religion, national origin, gender, age, marital status, creed, religion, disability, or other protected characteristics of the employee.

3.2 FPCC expects that all relationships among persons who work at or provide services to FPCC will be business-like and free from bias, prejudice, harassment, and bullying. Furthermore, FPCC will not tolerate sexual or other illegal or other improper harassment from clergy, supervisors, other employees, outside contractors and vendors, or church members. Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during church or related business trips, meetings and church-related social events.

3.3 Because FPCC is both a professional workplace and a religious institution that seeks to represent Christian values, including respect and sensitivity to all

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persons, Church offices must maintain a professional and appropriate appearance. No employee shall place or maintain in his or her work area, or circulate any picture, drawing or other depiction of a sexually explicit or offensive nature, or which ridicules or reasonably offends any racial, religious or ethnic group.

3.4 These policies should not, and may not, be used as a basis for excluding or separating individuals of a particular gender, or any other protected characteristic, from participating in business or work-related social activities or discussions.

- In other words, no one should engage in discrimination or exclusion to avoid allegations of harassment. The law and the policy of FPCC prohibits disparate treatment on the basis of sex or any other protected characteristic.
- The prohibitions against harassment, discrimination and retaliation are intended to complement and further those policies, not to form the basis of an exception to them.

3.5 FPCC encourages reporting of all perceived incidents of discrimination, harassment, or bullying regardless of the offender's identity or position. It is the policy of FPCC to promptly and thoroughly investigate such reports. (See 7.1 below for complaint reporting process.)

- Individuals who believe they have been the victim of such conduct should discuss their concerns with their immediate supervisor, or any member of the Administration Committee.
- In addition, FPCC encourages individuals who believe they are being subjected to such conduct to promptly advise the offender that his or her behavior is unwelcome and to request that it be discontinued. (Often this action alone will resolve the problem.) FPCC recognizes, however, that an individual may prefer to pursue the matter through complaint procedures.

3.6 Retaliation. No hardship, loss, benefit or penalty may be imposed on an employee in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Appearing as a witness in the investigation of a complaint.
- Serving as an investigator of a complaint.

Retaliation or attempted retaliation in response to lodging a complaint or invoking the complaint process is a violation of this policy. Any person found to have violated this aspect of the policy will be subject to sanctions up to and including termination of employment or termination of contract if the perpetrator is a contractor or vendor.

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3.7 Any supervisor, agent, volunteer, or other employee who has been found by FPCC, after appropriate investigation, to have sexually harassed or engaged in other types of harassment or bullying of another employee or volunteer, or to have abused a minor or adult without mental capacity, will be subject to appropriate sanctions, depending upon the circumstances, from a warning in his or her personnel file up to and including termination. Such offences also can result in cancellation of the contractual relationship in the case of a non-employee.

3.8 Any employee or other worker or service provider who has questions or concerns about these policies should talk with the Church Administrator, the pastoral staff, or a member of the Administration Committee.

3.9 FPCC shall make every reasonable effort to ensure that employees, volunteers, church members, contractors, vendors, and customers are familiar with these policies and are aware that any complaint in violation of such policies will be investigated and resolved appropriately.

3.10 Nothing in this policy may prevent the complainant or the respondent from pursuing formal legal remedies or resolution through local, state or federal agencies or the courts.

3.11 Consensual Relationships. If any employee of FPCC enters into a consensual relationship that is romantic or sexual in nature with a member of his or her staff (i.e., an employee who reports directly or indirectly to him or her), or if one of the parties is in a supervisory capacity in the same department in which the other party works, the parties must notify the Senior Pastor-Head of Staff or the Chairperson of the Administrative Committee. Because of potential legal issues regarding quid pro quo harassment, FPCC has made reporting mandatory. This requirement does not apply to employees who do not work in the same department or to parties who do not supervise or otherwise manage responsibilities over the other.

### 4. Definitions:

4.1 Sexual harassment. The EEOC defines sexual harassment as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment ("quid pro quo," or "this for that"),
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment. Sexual harassment can be found whether the offender is a supervisor, a coworker, or a church member and whether

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the victim is male or female. The offensive behavior can be carried out through physical contact, words, or gestures, and it can occur between two people of the same or different sexes.

Examples of prohibited sexual harassment include, but are not limited to:

- unwanted sexual advances or requests for sexual favors;
- sexual jokes or innuendo of a provocative or suggestive nature;
- verbal abuse of a sexual nature;
- jokes or innuendo intended for and directed to another person;
- commentary about an individual's body, sexual prowess or sexual deficiencies;
- suggestive or demeaning facial expressions, looks, or leering, or similar gestures, including whistling;
- display in the workplace of sexually suggestive objects or pictures;
- other physical, verbal or visual conduct of a sexual nature;
- conduct that creates an intimidating, hostile, or offensive working environment for persons of the opposite or same sex, including "hazing;"
- unwelcome fondling, "patting," or other touching of a sexual nature;
- making acceptance of unwelcome sexual conduct or other advances or requests for sexual favors as a condition for hire, promotion, pay increase, favorable evaluation, assignment or continued employment, or discrimination against the employee in any of these areas for refusal to accept such conduct, advance or requests.

Courteous, mutually respectful, pleasant, non-coercive interactions between employees, including men and women, that are appropriate in the workplace and acceptable to and welcomed by both parties are not considered to be harassment, including sexual harassment.

4.2 Harassment is verbal, written or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, religion, sex, national origin, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law, or that of his or her relatives, friends or associates, and that:

- has the purpose or effect of creating an intimidating, hostile or offensive work environment,
- has the purpose or effect of unreasonably interfering with an individual's work performance, or
- otherwise adversely affects an individual's employment opportunities.

Harassing conduct includes epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group that is placed on walls or elsewhere on the employer's premises or circulated in the

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workplace, on church time or using church equipment by e-mail, phone (including voice messages), text messages, social networking sites or other means.

4.3 Bullying is repeated inappropriate behavior, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment.

Bullying may be intentional or unintentional. As in sexual harassment, it is the effect of the behavior on the individual that is important, not the intent. FPCC considers the following types of behavior examples of bullying:

- **Verbal bullying:** Slandering, ridiculing or maligning a person or his or her family; persistent name calling that is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks.
- **Physical bullying:** Pushing, shoving, kicking, poking, tripping, assault or threat of physical assault, damage to a person's work area or property.
- **Gesture bullying:** Nonverbal threatening gestures; glances that can convey threatening messages.
- **Exclusion:** Socially or physically excluding or disregarding a person in work-related activities.

In addition, the following examples *may* constitute or contribute to evidence of bullying in the workplace:

- Persistent singling out of one person in a negative way.
- Repeatedly shouting or raising voice at an individual in public or in private.
- Using verbal or obscene gestures.
- Not allowing the person to speak or express himself or herself (i.e., repeatedly ignoring or interrupting).
- Personal insults and use of offensive nicknames.
- Public humiliation in any form, including public reprimands that should have occurred privately.
- Constant criticism on matters unrelated or minimally related to the person's job performance or description.
- Repeatedly accusing someone of errors that cannot be documented.
- Deliberately interfering with mail and other communications.
- Spreading rumors and gossip regarding individuals.
- Encouraging others to disregard a supervisor's instructions.
- Manipulating the ability of someone to do his or her work (e.g., overloading, under-loading, withholding information, assigning meaningless tasks, setting deadlines that cannot be met, giving deliberately ambiguous instructions).
- Inflicting menial tasks not in keeping with the normal responsibilities of the job.
- Continually taking credit for another person's ideas.
- Refusing reasonable requests for leave in the absence of work-related reasons not to grant leave.

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- Deliberately excluding an individual or isolating him or her from work-related activities, such as meetings.
- Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual's property (defacing or marking up property).

4.4 Retaliation is defined as taking adverse action against a person who files or responds to a harassment complaint or harassment investigation. Retaliation of this nature is illegal.

### 5. References:

- *Presbyterian Church (U.S.A.) Sexual Misconduct Policy and Its Procedures*
- *Legal Resource Manual for Presbyterian Church (U.S.A.) Middle Governing Bodies and Churches. Third edition (2010)*
- Society of Human Resource Management sexual harassment and anti-harassment guidelines and policy guidelines from various insurance companies
- Equal Employment Opportunity Commission Guidelines
- Title VII of the Civil Rights Act of 1964

### 6. Applicability:

6.1 These policies apply to all applicants, employees, and volunteers, whether related to conduct engaged in by fellow employees or by someone not directly connected to FPCC (e.g., an outside vendor, contractor, or consultant).

6.2 Although contractors and vendors are not employees of FPCC, they are not permitted to engage in behavior prohibited in these policies while on church premises or while performing services for the church at any location.

### 7. Procedures:

7.1 Any employee or volunteer who believes (s)he has experienced sexual or other harassment as described above in Definitions shall report such harassment through either of the following procedures, at the option of the employee:

- Under the complaint procedures of these policies; or
- By reporting the harassment to his or her supervisor, the Church Administrator, the Senior Pastor-Head of Staff, the Associate Pastor, other program staff, or the Chair or a member of the Administration Committee.

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**Employees may, and are expected to, bypass the standard chain-of-command in reporting allegations of sexual harassment when the person to whom the employee would normally report is the person who either committed or condoned the harassment.**

7.2 Mandatory Reporting of Child Abuse. All ruling elders, deacons, certified Christian educators, and teaching elders are required to report knowledge of child abuse to the civil and ecclesiastical authorities according to the *Book of Order*, which requires that: "Any member of this church engaged in ordered ministry and any certified Christian educator employed by this church or its congregations, shall report to ecclesiastical and civil legal authorities knowledge of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of a confidential communication as defined in G-4.0301, (2) she or he is not bound by an obligation of privileged confidential communication under law, or (3) she or he reasonably believes that there is risk of future physical harm or abuse" (G-4.0302) (See also policies on child protection in Section 10 of this MOO.)

7.3 FPCC encourages the prompt reporting of all harassment complaints or concerns so that rapid and constructive action can be taken before relationships become irreparably strained. Therefore, while no fixed reporting period has been established, early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment.

7.4 Any reported allegations of harassment, discrimination or retaliation will be investigated promptly. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

7.5 Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action. Part of this process is to seek healing of damaged trust relationships if possible and appropriate, but in any event reasonable effort to maintain confidentiality will be made. Investigators should seek to uphold the dignity of all persons involved, including persons who are alleging harm, persons who are accused of misconduct, and the families and communities of each.

7.6 Retaliation against an individual for reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy and, like harassment or discrimination itself, will be subject to disciplinary action. Acts of retaliation should be reported immediately and will be promptly investigated and addressed.

7.7 Misconduct constituting harassment, discrimination, bullying, or retaliation will be dealt with appropriately. Responsive action may include, for example, training, referral to counseling or disciplinary action such as a warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension

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without pay, or termination, as FPCC believes appropriate under the circumstances.

7.8 If a party to a complaint does not agree with its resolution, that party may appeal to FPCC's Session, and if that is not satisfactory, to the Presbyterian Church (USA).

7.9 False and malicious complaints of harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) may be the subject of appropriate disciplinary action.

### **8. Review Schedule:**

The Administration Committee Chairperson should review this OPS, at a minimum, on the triennium of the effective date and recommend any needed revisions for the Session's approval.

**9. Approval:** Session approved this OPS on the above effective date.