



FIRST PRESBYTERIAN CHURCH OF WESTERVILLE

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First Presbyterian Church of Westernville, NY Sexual Harassment Policy

The First Presbyterian Church of Westernville, NY [hereafter called the Westernville Church] is committed to maintaining a workplace and church environment free from sexual harassment. All employees, volunteers, and independent contractors are required to behave in a manner that prevents sexual harassment in the Westernville Church. Members of the congregation and visitors are expected to behave toward each other in a manner commensurate with an environment free from sexual harassment. This policy defines sexual harassment and gives procedures for reporting sexual harassment and defines the role and responsibility of the Session of the Westernville Church in responding to complaints.

Policy:

1. This policy defines and prohibits sexual harassment.
2. Any employee, volunteer, independent contractor, or member/visitor covered by this policy who engages in sexual harassment or retaliation of anyone reporting allegations of sexual harassment will be subject to remedial or disciplinary action allowed by NYS law or the disciplinary procedures found in the Book of Order of the Presbyterian Church.
3. Any employee, volunteer, independent contractor, or member/visitor who feels he/she has been sexually harassed or subjected to adverse action from reporting sexual harassment should inform any elder of the Session of the Westernville Church. An investigation subcommittee of the Session will be appointed to conduct a prompt and thorough investigation of sexual harassment that ensures due process for all parties. Anyone who is a subject of sexual harassment

allegations is required to cooperate with internal investigation of sexual harassment complaints.

4. The subcommittee shall report its findings to the full session with recommendations for remediation or disciplinary action. Such recommendations may include, but not be limited to, termination of employment, withdrawal of volunteer status, remediation, or, as appropriate, disciplinary measures involving members of the congregation as stated in the Book of Order of the Presbyterian Church.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful. Sexual harassment may be on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sexual orientation when such conduct has the purpose or effect of creating an intimidating, hostile or offensive environment, even if the reporting individual is not the intended target of the sexual harassment. A sexually harassing hostile environment includes, but is 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. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation.

Sexual harassment also occurs when a person in authority tries to trade job benefits or privileges for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions, or privileges of employment.

Examples of sexual harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- 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 because of that individual's sex, sexual orientation, gender identity and the status of being transgender, 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, name-calling.

Who can be a target of sexual harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, (including independent contractors), and volunteers. Harassers can be employees, independent contractors, or volunteers.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical site itself. Calls, texts, emails, and social media posts can constitute unlawful harassment, even if it occurs off premises on personal devices.

Retaliation

Unlawful retaliation can be any action that could discourage an employee or volunteer from coming forward to make or support a sexual harassment claim. Adverse action need not occur only in the physical space of the church unlawful retaliation. 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, either internally or with any anti-discrimination agency.
- testified or assisted in a proceeding involving sexual harassment.
- opposed sexual harassment by making a verbal or informal complaint.
- reported that another employee or volunteer has been sexually harassed; or
- encouraged a fellow employee or volunteer 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

Preventing sexual harassment is everyone’s responsibility. The Westernville Church cannot prevent or remedy sexual harassment unless it knows about it. Any employee or volunteer or member/visitor who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to any elder of the Session. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to any elder of the Session.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is available from the Session.

Persons who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

Session Responsibilities

The Session of the Westernville Church has the responsibility to inform employees, volunteers, independent contractors, and members/visitors of the provisions of this policy. The Session has the authority to investigate complaints of sexual harassment and implement corrective actions.

Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers may be required to cooperate in an investigation of suspected sexual harassment. All parties will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

The Westernville Church will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, a subcommittee of the Session will be appointed to conduct an immediate review of the allegations.
- If documents, emails or phone records are relevant to the investigation, the subcommittee will take steps to obtain, review, and preserve them. All documentation will be kept in a secure and confidential location.
- The subcommittee will interview all parties involved, including any relevant witnesses.
- The subcommittee will create written report of the investigation with:
 - A list of all documents reviewed, along with a detailed summary of relevant documents.
 - A list of names of those interviewed, along with a detailed summary of their statements.
 - A timeline of events.
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections And External Remedies

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

Aside from the internal process at the Westernville Church, employees or volunteers 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 the New York State Supreme Court.

Complaints with DHR may be filed any time **within one year** 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 Westernville Church 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.

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. Contact the local police department.