

**POLICIES FOR THE PREVENTION OF HARASSMENT  
(INCLUDING SEXUAL HARASSMENT) OF CHURCH  
WORKERS IN THE EPISCOPAL DIOCESE OF  
NORTHERN CALIFORNIA**

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## **Introduction**

The policies contained herein are adopted as policies of the Diocese, its institutions, its congregations, and approved organizations to establish and maintain standards for the protection of church workers against harassment (including sexual harassment) in order to keep all church workers safe. Such standards are essential for establishing parameters of propriety to guide the Church in its work.

These policies are based in part on the Model Policies for the Prevention of Sexual Harassment of Church Workers made available by The Church Pension Group and The Nathan Network. The Nathan Network is a nonprofit organization dedicated to serving the Episcopal Church by providing support for those engaged in preventing and/or responding to sexual misconduct through training and empowerment, education, spiritual support, resources, and networking. The Model Policies may be viewed on the Church Pension Group website at [www.cpg.org](http://www.cpg.org).

## **History of Policies for the Prevention of Harassment (Including Sexual Harassment) of Church Workers**

In 1991, General Convention passed Resolution B052 (see Appendix A) in which it declared that sexual abuse, exploitation, coercion, and harassment of adults and minors by clergy and church employees are abuses of trust, a violation of the Baptismal Covenant, contrary to Christian Character, and are therefore wrong.

In 1999, the Committee on Sexual Exploitation (COSE), also created by General Convention in 1991, conducted a survey of 100% of the domestic dioceses on how dioceses were dealing with issues of sexual misconduct. COSE gathered and reviewed sexual misconduct policies from 70 dioceses with the intention of circulating as model policies those that incorporated and reflected current best practices based on the Church's experience in the area of sexual misconduct during the 1990's. COSE concluded that none of the policies gathered were truly state-of-the-art policies that could serve as a model for dioceses who wanted to update their current policies. In response to this need, the Church Pension Group, in partnership with The Nathan Network, introduced *Model Policies for the Protection of Children and Youth from Abuse* in 2004.

The 2006 General Convention, in response to proposals from its Task Force on Institutional Wellness and the Prevention of Sexual Misconduct (the successor to COSE), adopted Resolution A156 (see Appendix B) requiring every diocese to adopt policies to protect church workers, both paid and volunteer, from sexual harassment and adults from sexual exploitation. The Resolution also requires dioceses to assist congregations in developing such policies. The Church

Pension Group and The Nathan Network developed these *Model Policies* for that purpose.

This Diocese concurs with these actions of General convention and adopts this policy in response to those actions. In addition this Diocese extends the policy beyond the sexual harassment proscribed by secular law to include harassment of any kind for any reason, whether or not illegal under secular law. The Diocese adopts these policies as an expression of the Baptismal Covenants to seek and serve Christ in all persons, loving our neighbors as ourselves and to strive for justice and peace among all people, and to respect the dignity of every human being.

**Important Information about the Legal Differences between "Harassment" and "Sexual Harassment" and "Employees" and "Volunteer" Church Workers under These Policies**

These policies extend beyond the requirements of secular law in two respects. These policies extend to harassment of any kind for any reason; whereas secular law protects against only harassment that is sexual. The remedies provided by secular law to those subjected to sexual harassment do not apply to harassment that is not sexual or, if sexual, does not reach to the extent of the prescription of secular law.

The second difference concerns volunteers. As of the preparation of these policies, laws protecting workers from sexual harassment or other harassment in the workplace only apply to "employees" and not to "volunteers." Federal laws provide various legal rights to employees who have been subjected to illegal sexual harassment. Some of those rights include: the right to file a complaint with a government regulatory body; the right to have a government regulatory body investigate the complaint and negotiate a remedy with the employer; the right to have the government sue the employer on the employee's behalf; and the right for the employee to sue the employer for such damages as back pay, reinstatement, lost future wages, and attorneys fees. The rights available to employees may vary under applicable federal, state, and local laws.

**Volunteer church workers are not protected by sexual harassment laws.** However, General Convention Resolution A156 (2006) (see Appendix B) specifically states that all church workers, **both paid and volunteer**, must be protected by diocesan and congregational policies.

What this means is that both paid and volunteer workers will have the same rights to an environment free from sexual harassment under the organization's policies BUT volunteer workers **do not** have the same **legal** rights given to paid employees under federal, state and local sexual harassment laws.

A church employer must work to prevent the sexual harassment of volunteer workers, stop any harassment that is occurring and protect the volunteer worker from retaliation but the volunteer worker will

not have a legal right to back pay, reinstatement, lost future wages, attorney's fees or any other remedy provided by law. Similarly, a volunteer church worker **does not** have the **legal** right to file a complaint with a government regulatory body; or to have a government regulatory body investigate the complaint and negotiate a remedy with the Church; or to have the government sue the Church on the volunteer's behalf; or have the right to sue the Church for damages under the sexual harassment laws.

**Sexual Harassment Laws**

- Employees covered **Yes, for some employers**
- Volunteers (clergy and lay) covered **No**

**Church Policy**

- Employees covered **Yes**
- Volunteers (clergy and lay) covered **Yes**

## **Harassment (Including Sexual) Harassment Policy**

### **Prohibition of Harassment (Including Sexual) Harassment Policy**

The Episcopal Church in the Diocese of Northern California (the "Church") prohibits harassment (including sexual) harassment of Church Personnel<sup>1</sup> by anyone (including supervisors or decision-makers, co-workers, consultants, vendors and other non-employees). Such harassment (including sexual) harassment is prohibited. The behavior of individuals engaging in such conduct, or supervisors or decision-makers, who knowingly allow such behavior to continue, will not be tolerated.

All church personnel, whether supervisory or non-supervisory, and whether paid or volunteer, are prohibited from engaging in the conduct prohibited by this policy.

#### **A. Prohibited Behavior**

As noted above, the Church prohibits all forms of harassment (including sexual) harassment in the Church. Specific definitions and examples are set forth below.

##### 1. Harassment

The Church maintains a strict policy prohibiting harassment of any kind for any reason. Harassment need not be illegal to be a violation of Church policy. This prohibition applies to all persons involved in the operation of the Church, including supervisors and co-workers. Church personnel may not harass anyone, and Church personnel should not tolerate harassment from anyone. Prohibited harassment may include verbal conduct such as derogatory remarks or bullying, visual displays such as offensive cartoons, or other physical conduct such as unwelcome touching or impeding movement.

##### 2. Sexual Harassment

Sexual harassment is prohibited by this Policy. Sexual harassment includes unwelcome sexual advances and requests for sexual favors. Other unwelcome conduct which may constitute sexual harassment includes, but is not limited to, the following:

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<sup>1</sup>The definitions of terms used in this Policy are set forth in Section C of this Policy.

**Verbal:**

- repeated sexual innuendos, sexual epithets, derogatory slurs, off-color jokes (for example, jokes that include sexual language, innuendo, references, scenarios, etc.);
- propositions, threats, or suggestive or insulting sounds (for example, comments about body, sexuality, etc., including insults and innuendo) even if the comment is about someone else;
- inappropriate electronic communication (for example, e-mail, texting, Twitter, Facebook, or any other form of electronic communication that now exists or may come into existence, that includes sexual jokes or other references of a sexual nature about any person, gossip or speculation about a person's sexuality, sexual practices, sexual health, pregnancy, virility, etc.). This includes e-mail or other electronic communication that was sent accidentally, for example by hitting the "forward" button instead of "reply," or forgetting that a particular individual or worker is on one of your group lists.

**Visual/Non-Verbal:**

- derogatory posters, cartoons or drawings (for example, cartoons and calendars that include nudity, sex acts, provocative poses, innuendo, sexual language, etc.);
- suggestive objects or pictures (for example, photographs that include nudity, sex acts, provocative poses; wallpaper, Screensavers, or other electronic displays of a sexual nature);
- graphic commentaries; leering; or obscene gestures (for example, vulgar gestures, gestures simulating sexual acts, "shooting the finger," kissing the air toward someone or licking the lips in a sexually suggestive or provocative manner).

**Physical:**

Unwanted physical contacts (including touching, interference with an individual's normal work movement, unwelcome displays of romantic or sexual affection, aggressive physical contact or assault); and

**Other:**

Making or threatening reprisals to an individual who opposes, objects to or complains about sexual harassment; possession of inappropriate material of a sexual nature in the Church or its display, duplication, or transmission.

**Such verbal and physical conduct may constitute harassment when:**

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or other Church work;
2. Submission to or rejection of such conduct by an individual is used as a basis for employment or other Church work decisions affecting such individual;
3. 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.

**3. Retaliation**

The Church will not take any action in retaliation against any Church Personnel who, in good faith and with a genuine belief that he/she has been harassed, brings or voices a complaint pursuant to this Policy or otherwise opposes harassment. In addition, the Church will not tolerate any retaliatory acts by other individuals.

Retaliation is a serious violation of Church policy and applicable law. If you believe you have been subjected to retaliation in violation of this Policy, you should report your complaint immediately in the manner specified in Section B below. Individuals will be subject to discipline, up to and including termination if they are found to have retaliated against an individual because such individual (1) in good faith and with a genuine belief that he/she has been subjected to harassment, made an honest complaint about such conduct, (2) participated honestly and in good faith in any investigation into a harassment complaint, and/or (3) in good faith opposed acts of harassment.

**B. Procedure for Reporting Suspected Harassment and/or Retaliation**

**1. General Procedures Applicable to All Church Personnel**

If you believe that the actions or words of a supervisor/manager, co-worker, customer, vendor, volunteer, or other individual in the Church constitutes illegal or prohibited harassment, you have a responsibility to promptly report that behavior to the Church's management. Prompt reporting enables the Church to stop the harassment, before it becomes severe or pervasive.

If you believe you have been the victim of any form of harassment or retaliation, you must promptly give notice of your complaint to one or more of the following:

1. Your supervisor or person responsible for your activity;
2. Anyone in your supervisory chain;
3. The rector or clergy person in charge of the congregation;
4. The Senior Warden of the congregation;
5. The Bishop; and/or
6. **Safe Church Coordinator**

You are not required to complain to your supervisor or person responsible for your activity or within your chain of command. In addition, to reporting the offending behavior to one of the people listed above, you may speak directly to the individual whose conduct you find objectionable. You are not required to do this and it is suggested for you to consider doing only if you are comfortable doing so. If you decide to speak directly to the person involved, you may find that clear communication can sometimes resolve an issue immediately, as well as build greater understanding between individuals in the Church.

You may formally or informally complain to any of the above personnel via any of the following:

1. Telephone call
2. Letter
3. E-mail
4. Fax
5. In-person meeting
6. Filing a "Notice of Concern" and/or
7. Online through the Diocesan Website limited to e-mail access to Safe Church Coordinator

All supervisors and decision-makers are required to report all formal and informal complaints, as well as any suspected or known policy violations, immediately to the rector, vicar, or clergy person in charge of the congregation (for parishes and missions) or Safe Church Coordinator, or bishop (for dioceses), even if you ask the supervisor or decision-maker to keep the complaint confidential, or indicate that you do not wish to file a formal complaint. Church Personnel are required to report immediately any suspected or known policy violations to the rector or clergy person in charge of the congregation.

All supervisors and decision-makers are expected to act promptly and appropriately to prevent (1) harassment in the Church, and

(2) retaliation against those who make a good faith complaint of harassment, or those who participate honestly and in good faith in either an investigation of a complaint or oppose illegal or prohibited harassment in the Church.

All complaints of harassment will be reviewed and investigated promptly and impartially by the Church's management and/or its designee. Complaints may be made verbally or in writing. Once Church management receives notice of any complaint of harassment it will swiftly determine whether or not a fact-finding investigation is necessary.

If it is determined that a fact-finding investigation is necessary, it will be launched promptly. If necessary, intermediate measures may be taken before completing the investigation to ensure that further harassment does not occur.

Moreover, the Church will protect the confidentiality of the allegations to the extent possible; however, no individual can be promised or guaranteed strict or absolute confidentiality. For example, information may have to be disclosed to those officials and/or Church Personnel with a need to know in order to carry out the purpose and intent of this Policy.

Corrective or disciplinary action will be taken against any Church Personnel found to have engaged in harassment. Such action may include counseling and/or appropriate disciplinary measures, up to and including termination.

As the complaining party, you will be given notice, in a timely fashion, of the outcome of the investigation of any formal or informal complaint

## **2. An Additional Option for Some Church Employees, Not Volunteers, Subject to Sexual Harassment**

This section provides an additional option for some Church **employees, not volunteers**, who believe they have been the victim of any form of sexual harassment, as prohibited by federal law. **(Religious associations and corporations are exempt from California laws prohibiting sexual harassment in the workplace.) This option is available only to employees of an employer with fifteen or more employees.**

If you are a Church **employee, not a volunteer**, as defined under this Policy and you believe you have been the victim of any form of illegal sexual harassment, in addition to the procedure set forth above, you also have the option of consulting with an attorney and/or filing a complaint with the Equal Employment

Opportunity Commission (EEOC), as well as pursuing any other remedies permitted by law.

As a general matter, the time frame for filing a complaint with the EEOC is 180 days from the date of the alleged act of unlawful sexual harassment.

The Church **employee, not volunteer**, must note that these time limits typically do not run from the date that the complaint made to the Church is resolved but from the date the act of sexual harassment, is alleged to have occurred. **Please note that this is not legal advice.** Individual employees are responsible for confirming the time frames for filing a complaint with these administrative agencies by contacting the agencies themselves and/or counsel.

**Nothing in this posting or in the Church's sexual harassment policy creates any legal rights that did not otherwise exist nor does the Church admit that it is covered by or subject to any federal, state, or local laws.**

## C. General Definitions

### 1. Church Personnel

For purposes of this Policy, the term "Church Personnel" shall mean:

- a. All clergy whether stipendiary, non-stipendiary, or otherwise who are engaged in ministry or service to the Church;
- b. All paid personnel (including Church employees) whether employed in areas of ministry or other kinds of services by the diocese, its congregations, schools or other agencies.  
For example, secretaries, bookkeepers, choir directors, sextons, etc.;
- c. Those who contract their services to the Diocese, its congregations, school, or other agencies;
- d. Volunteers, including any person who enters into or offers him or herself for a Church related service, or who actually assists with or performs a service, whether or not they have been selected or assigned to do so. Volunteers include members of advisory boards, vestries, bishop's committees, boards of directors and advisory boards, secretaries, bookkeepers,

sextons, Sunday school teachers, committee chairs and members, altar guild members, study group members, readers, ushers, etc.

- e. All interns, persons in the ordination process, persons serving in field education assignments,

## **2. Church Employees**

For purposes of this Policy, the term "Church employees" shall mean all individuals hired by the Church who are employees of the Church for purposes of federal, state and/or local discrimination and harassment laws

## **3. Supervisors and Decision-Makers**

For purposes of this Policy, the term "supervisors and decision-makers" shall mean:

- a. All persons who have the express authority to hire, select, supervise, discipline, promote, demote, terminate, set compensation or other terms and conditions of employment;
- b. All persons who have the express authority to recruit, duly appoint, select, license, discipline, supervise, terminate, or set terms and conditions of volunteer service;
- c. All members of decision-making bodies who have the authority to approve the creation of ministries, programs, Church activities, or personnel policies or who [fill in examples];
- d. Standing Committees, Diocesan Councils/Executive Boards, Vestries, and Bishop's Committees who appoint or approve Persons Who Have Pastoral Relationships as defined in this Policy including all Standing Committees, Commissions on Ministry, Vestries, Boards of Directors for Schools, Committees appointed by the Bishop and the like.

## **D. Education and Training Requirements**

All clergy and all and all paid personnel who fall within the definition of Church Personnel and all Supervisors and Decision Makers are required to take training on harassment and the organization's harassment policy. Existing Church Personnel must be trained by October 31, 2011. New Church Personnel and Supervisors and Decision Makers must be trained before they start work in their Church position. If that is not possible, the Policy must be reviewed and discussed with them before they start work and the training must be completed within three (3) months of starting.

Each organization bound by these Policies shall comply with a system of record keeping, including a centralized record repository in the Office of the Bishop, established by the Bishop, which maintains up to date records of training, including certificates for each required training.

## Appendix

### A. Resolution Number: 1991-B052

**Title:** Establish a Committee on Sexual Exploitation

**Legislative Action Taken:** Concurred As Amended

**Final Text:** *Resolved*, the House of Deputies concurring, **That the 70th General Convention of the Episcopal Church declares that sexual abuse, exploitation, coercion, and harassment of adults and minors by clergy and church employees are abuses of trust, a violation of the Baptismal Covenant, contrary to Christian Character, and are therefore wrong; and be it further**

*Resolved*, **That the 70th General Convention of the Episcopal Church establish a Committee on Sexual Exploitation to be appointed by the Presiding Bishop and the President of the House of Deputies to work with the Office of Pastoral Development. It shall be the duty of the Committee on Sexual Exploitation to study, educate, develop curriculum, and propose policy and standards of conduct on sexual abuse, exploitation, coercion, and harassment, and to advise the Office of Pastoral Development as resource persons. The membership of the committee is to be representative as to sex, race and ethnic diversity. The Committee will report to the 71st General Convention.**

**Citation:** General Convention, *Journal of the General Convention of...The Episcopal Church, Phoenix, 1991* (New York: General Convention, 1992), p. 783.

**B. General Convention Resolution A156 (2006)**

**Final Version - Concurred**

**Resolution A156**

**Title: Sexual Exploitation**

**Topic: Sexual Misconduct**

**Committee: Social and Urban Affairs**

**House of Initial Action: Bishops**

**Proposer: Institutional Wellness and Prevention of Sexual Misconduct**

**Sub Committee**

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*Resolved, That the 75<sup>th</sup> General Convention of The Episcopal Church affirm the work already occurring in many dioceses and at the same time recommit itself to the positions taken by previous General Conventions that sexual misconduct (encompassing both sexual harassment and sexual exploitation) of adults by clergy, church employees, and volunteer workers has been and continues to be of deep concern to this Church, is an abuse of trust, a violation of the Baptismal Covenant, contrary to Christian character and is, therefore, wrong; and be it further*

*Resolved, That each diocese adopt policies for the protection from sexual misconduct of those served by diocesan programs, those who volunteer in the work of the diocese or are employed by the diocese, and that dioceses assist congregations in the development of such procedures and policies, including using the many resources that already exist, that address the following:*

- 1. the articulation of behavioral standards for all clergy, lay employees and volunteers who work with adults or who provide pastoral counseling, pastoral care, spiritual direction, or the sacraments;*
- 2. a screening process for all clergy, lay employees and volunteers who provide pastoral counseling and care, spiritual direction or the sacraments and who supervise clergy or lay volunteers;*
- 3. education and training for all clergy, lay employees, and volunteers as listed above, with particular attention paid to what legally constitutes sexual harassment and to appropriate behavior and inappropriate sexual or sexualized behaviors towards adults, and with periodic refresher training encouraged;*
- 4. guidelines for responding to concerns of sexual misconduct; and be it further*

*Resolved, That each diocese shall report to the House of Bishops Committee on Pastoral Development prior to the Spring 2009 House of Bishops meeting with a copy of its adopted and implemented policy and an evaluation of the history of its use. A summary report shall be made to the House of Bishops Spring 2009 meeting and a full report made to the 76<sup>th</sup> General Convention.*