

HARASSMENT POLICY **of The Classis of Schenectady** **[ADOPTED MAY 24, 2022]**

Policy Statement

The Classis of Schenectady in the Reformed Church of America (“classis”) is committed to ensuring that all persons are treated with respect by providing a safe environment, which reflects the dignity of all individuals. As such, all forms of harassment and inappropriate behavior by employees of classis will not be tolerated. Employees of classis include ministers who are enrolled members of the classis, along with the classis clerk and treasurer.

Harassment

1. Harassment is defined as unwelcome conduct toward an individual because of his or her race, color, religion, sex (including pregnancy, sexual orientation or gender identity), national origin, disability, age, genetic information and any other legally protected status as defined by federal or state law, when such conduct creates an intimidating, hostile or offensive environment.

Examples of such conduct include but are not limited to:

- Oral or written communications (including social media posts) that contain offensive name-calling, jokes, slurs, negative stereotyping or threats based on any of the aforementioned protected status characteristics.
- Nonverbal conduct, such as staring, leering and the giving of inappropriate gifts.
- Physical conduct such as rape, assault, sexual battery, molestation or intentional and unwanted touching, such as pinching, patting, grabbing, brushing against or poking at another’s body.
- Unwelcome sexual advances, propositions or other sexual comments, such as sexually oriented gestures, noises, remarks, jokes or comments about a person’s sexuality or sexual experience.
- Visual images, such as derogatory or offensive pictures, cartoons, drawings or gestures. Prohibited images include those in hard copy or electronic format, such as social media posts or emails.
- Preferential treatment or promises of preferential treatment based on submission to sexual conduct, including soliciting or attempting to solicit any employee or volunteer to engage in sexual activity for compensation or reward and any other preferential treatment based on protected status.
- Subjecting, or threats to subjecting, an employee or volunteer to unwelcome sexual attention or conduct or intentionally making performance of the employee’s job more difficult because of protected status of the employee or volunteer.

2. Sexual Harassment is unwelcome conduct of a sexual nature that is sufficiently persistent or offensive to unreasonably interfere with an employee’s job performance or

create an intimidating, hostile or offensive working environment. Sexual harassment is defined by U.S. EEOC (Equal Employment Opportunity Commission) Guidelines as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or c) 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.

Under Title VII of the Civil Rights Act of 1964, there are two types of sexual harassment a) *quid pro quo* and b) hostile work environment (see definitions below). Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be considered harassment. Employees are prohibited from harassing other employees whether or not the incidents of harassment occur on employer premises and whether or not the incidents occur during working hours.

Quid Pro Quo is a Latin phrase, which loosely means "this for that". Harassment is unlawful where enduring the offensive conduct becomes a condition of continued employment, meaning a supervisor or someone in a position of authority requests sex, sexual favors or a sexual relationship in exchange for not firing or otherwise punishing the employee, or in exchange for favors, such as hiring, promotions or raises.

A hostile work environment is one where the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive. Petty slights, annoyances, and isolated incidents (unless extremely serious) generally do not rise to the level of illegality. Generally, to be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

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.

Inappropriate Behavior

Inappropriate behavior is physical or sexual behavior that is offensive to the person upon whom it is inflicted or actionable in a church setting and may not reach the legal standard for the definition of harassment.

1. Physical misconduct means:

- Threatened harm or non-accidental injury inflicted on a minor or legally protected adult.
- Offensive or harmful contact to any adult where "offensive" means behavior that is clearly socially unacceptable in the broader church community. Physical

misconduct may be a single event or a cumulative series of events.

- Child Abuse

2. Sexual misconduct includes:

- Exploiting or grooming a person whether minor or adult, regardless of consent or circumstances, for the purpose of sexual touch, sexual activity or inappropriate emotional intimacy with the result of either sexual gratification or power and control over the minor or adult.
- Unwelcome touch, sexual activity or emotional intimacy between co-workers or co-volunteers where unwelcome means behavior that is clearly unwanted or unacceptable in the broader church community;
- Or sexual suggestion, sexual touch, sexual activity or inappropriate emotional intimacy (as defined above) between a supervisor and a subordinate who serve together in a church program or ministry.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. 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 under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee 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 Procedures

Preventing sexual harassment is everyone's responsibility. The classis cannot prevent or remedy sexual harassment unless it is made known. Any person who feels that she/he has been, or is being subjected to sexual harassment or intimidation is encouraged to report such behavior to the classis. Additionally, anyone who witnesses

or becomes aware of potential instances of sexual harassment should report such behavior to the classis. It is helpful and you will be asked to provide a written record of the date, time and nature of the incident(s) and also the names of any witnesses.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee's behalf.

Employees or non-employees 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.

The classis Clerk or classis president are designated as the initial contact for persons making accusations under this policy. Alternatively, any minister who is a member of the classis may be contacted and will assist in helping you reach the stated clerk or classis president.

Investigation Procedures

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.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Schenectady Classis 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, the classis president or stated clerk will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. If complaint is verbal, encourage the individual to complete the "Complaint Form" in writing. If he or she refuses, prepare a Complaint Form based on the verbal reporting.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.

- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - 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).
- Keep the written documentation and associated documents in a secure and confidential location.
- 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 section on Legal Protections.

Corrective/Disciplinary Action

The classis will determine appropriate corrective and/or disciplinary actions for policy violations by classis employees, up to and including termination of employment and in coordination with the Book of Church Order, Chapter 2.

Compassionate Response

The classis will appoint a pastoral team to provide appropriate and compassionate care and restoration for individuals and family members affected by violations of this policy.

Legal Protections And External Remedies

Sexual harassment is not only prohibited by the Classis of Schenectady but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the Classis of Schenectady, employees 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 New York State Supreme Court.

Complaints with DHR may be filed any time **within one year (three years beginning Aug. 12, 2020)** 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 Classis of Schenectady 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.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 22 Reade Street, 1st Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

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.

Preventive Actions

1. Background Checks – all classis employees will be subject to pre-employment screening including criminal history checks and reference checks, which specifically inquire about past incidents of harassing or otherwise inappropriate behavior as outlined in this document.
2. Training – the classis will train all classis employees regarding this policy and in general about unlawful harassment and inappropriate behavior. Refresher training will occur annually. Training materials will be made available and encouraged for local churches and governing bodies within the classis to implement.

Responsibilities for Implementation

The Executive Committee of the Classis of Schenectady shall implement this policy in regards to the investigation, corrective and disciplinary actions, compassionate response and preventive actions regarding accusations of harassment.

APPENDIX A: LETTER OF HARASSMENT UNDERSTANDING

I have read and understand the Classis of Schenectady's Harassment Policy.

I have completed an approved harassment training course:

Training Course Completed: _____ Date: _____

I will abide by the policy and training in order to conduct my life and relationships in a manner that honors God and others.

PRINT NAME

Today's Date: _____

SIGNATURE

(Submit completed form to your direct supervisor, or oversight team, consistory, classis, or region.)

APPENDIX B: COMPLAINT FORM

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit to the classis president, vice president, or stated clerk. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, the classis officer should complete this form, provide you with a copy and follow its sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

COMPLAINANT INFORMATION

Name:

Address:

Phone:

Email:

Preferred Communication Method:

Email

Phone

In person

CHURCH INFORMATION

Minister:

Address:

Phone:

Email:

Vice President of the Consistory

Address:

Phone:

Email:

COMPLAINT INFORMATION

1. Your complaint of Sexual Harassment is made about:

Name:

Office:

Address:

Phone

2. Please describe what happened and if it is affecting you and your work or participation in the life of the church. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual harassment occurred:

Is the sexual harassment continuing? Yes No

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

The last question is optional, but may help the investigation.

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to who did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

Signature: _____

Date: _____

Instructions for Classis Leaders

If you receive a complaint about alleged sexual harassment, follow your sexual harassment prevention policy.

An investigation involves:

- Speaking with the complainant
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

Document the findings of the investigation and basis for your decision along with any correction actions taken and notify the complainant and the individual(s) against whom the complaint was made. This may be done via email.