**GUIDELINES TO CREATE A**

**FREEDOM FROM HARASSMENT POLICY**

The following information is provided only as a guideline for churches to assist in the development of Freedom from Harassment policies. Any policy should be reviewed by local legal counsel prior to publication since laws vary from jurisdiction to jurisdiction.

Court case law is based on employer-employee relationships and those relationships are embedded into the EEOC definition of sexual harassment. This guide is not merely intended to aid in determining if behavior in a particular situation qualifies as grounds for a lawsuit; it is meant to address the ethical expectations and obligations of ECC pastors and churches to provide, to the best of their abilities, safe spaces for worship and spiritual growth.

Because it has been so prevalent in the news lately, many churches think of addressing only sexual harassment in any written policy. While freedom from sexual harassment is crucial, harassment of a sexual nature is part of the broader issue of freedom from both abuse of power and other forms of persecution.

No one policy can address every situation; however, a clear pathway for reporting, and honest communication, will go a long way toward creating a culture of trust and safety. Below is a list of tips for creating policies. What follows are examples of each step.

**Tips for Creating Policies**

What should a policy include? According to Burke, Warren, MacKay & Serritella, P.C., the legal firm with whom the ECC consults, a good policy should spell out the following:

* A prohibition on conduct and examples of prohibited conduct
  + Be specific in your definition of what constitutes harassment
  + Spell out what is NOT harassment
* Procedure for reporting – make it easy to report incidents
* Notice regarding investigation –
  + Manage with strict confidentiality
  + Investigate promptly
  + Notify complainants about the results of the investigation
* Non-retaliation policy
* Notice regarding disciplinary action
  + Provide for prompt and effective corrective and preventative action when necessary
  + Enforce the rules fairly

In addition, staff and volunteers should be provided regular training opportunities, and everyone should receive notice of resources.

**SAMPLE POLICY**

**Definitions**

No employee of the church may engage in verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of that person's race, creed, color, religion, sex, national origin, marital status, familial status, status with regard to public assistance, disability, age, membership on a local human rights commission or sexual orientation, or that of the individual's relatives, friends or associates, if the conduct:

1. has the purpose or effect of unreasonably interfering with the individual's work performance; or
2. otherwise adversely affects that individual's employment opportunities.

The following are examples of prohibited harassment. Please note that these are not the only examples.

1. Epithets, slurs or negative stereotypes;
2. Intimidating or hostile acts based upon protected classification, as defined above;
3. Written or graphic material that denigrates or shows hostility or aversion to persons of a protected classification and that is posted or circulated on the church property.

One form of prohibited harassment is sexual harassment. Sexual harassment is defined as:

1. Making submission to unwelcome sexual advances or requests for sexual favors or other verbal or physical conduct of a sexual nature a condition of an employee's obtaining employment or continuing employment; or
2. Making submission to or rejection of such conduct the basis for employment decisions affecting an employee; or
3. Creating an intimidating, hostile or offensive working environment or otherwise substantially interfering with an individual's employment by such conduct; or
4. Retaliating against an employee for complaining about such conduct.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. The following does not constitute harassment:

1. Insisting upon good work performance.
2. Criticism for poor work performance.
3. Enforcing policies and rules (so long as they are enforced equally).
4. Intellectual disagreements
5. Presentation/discussion of uncomfortable or unpopular ideas or opinions

**Reporting Procedures and Timelines:**

The complainant should be prepared to provide a detailed account of the issue and the step(s) taken to resolve the matter. Concerns should be expressed as early as possible, as it is easier to take action closer to the occurrence of the event.

***The following are suggested steps; however, adhering to rigid protocol is not the goal. Individuals should be encouraged to report any incident of harassment to anyone within the church or organization who has been trained to manage such reports.***

Step One (your immediate supervisor):

*(For volunteers, this is generally a paid staff person. For staff, it may be the lead pastor. For issues that are of a highly sensitive nature, it is important to make available both a male and female staff member who have authority to take the complaint. Or if your immediate supervisor is the person who is harassing you, go to the next supervisory level.)*

Step Two (next supervisory level):

*(This may be the senior pastor or other pastoral staff, or this role may be designated to a church council member and the pastor or designated staff will function as the final arbiter.)*

Step Three (final review):

*(If the alleged harasser is an ECC credentialed pastor and the issue has not been resolved in the first two steps, the complainant should call the office of the Conference Superintendent or the offices of Ordered Ministry – 773-442-6584.)*

Within two weeks, the complainant may receive the following information as a follow-up to their concern:

* Acknowledgment that the concern was received
* Indications as to how the matter will be handled
* An estimate of the time that it will take for an investigation
* A notice that initial inquiries have been made
* Notice as to whether further investigation will follow, and if not, why not
* Notice of final decision and consequences

**Confidentiality and Non-retaliation Statement:**

All inquiries, complaints, and investigations will be treated confidentially. Information will be revealed strictly on a need-to-know basis. Information contained in a formal complaint will be kept confidential. However, the identity of the complainant may need to be revealed to the respondent and witnesses.

Appropriate steps will be taken to ensure that the complainant is protected from retaliation during and after the period of the investigation. This includes compliance with applicable federal and local laws that prohibit retaliation and promote fair treatment of staff reporting any potential violations of laws, regulations or policies. Retaliation against staff that make good faith reports is prohibited.

A staff member who retaliates against someone who has reported a violation in good faith is subject to discipline up to and including termination of employment.

**Notice regarding Disciplinary Action:**

Violations of any of these policies, procedures, and standards of conduct may warrant a verbal warning, written warning, suspension, or dismissal. The Church reserves the right to administer progressive disciplinary measures based on its interpretation of the facts of the incident(s) and to adapt discipline procedures or to proceed with immediate dismissal.

The Church expects its credentialed and non-credentialed staff to conduct their personal and public life in a manner that is consistent with the teachings of the Evangelical Covenant Church and biblically rooted ethics for Christian life and conduct.

Anyone who makes claims of harassment or discrimination under this Policy that are completely without factual basis or are made for malicious purposes may be disciplined, up to and including termination of their employment. Congregants will be subject to church discipline, up to and including dismissal from membership.

If you are an ECC credentialed clergy, you will be responsible for adhering to ECC’s policies, procedures, and standards of conduct as well as to the Rules for the Ordered Ministry and Ethical Principles for Covenant Ministers.