

The Episcopal Diocese of Long Island Policies on Sexual Harassment and Exploitation

Policy on Sexual Harassment

(Adapted by The Diocesan Council, April 2022)

The Diocese of Long Island (the "Diocese") is committed to maintaining a workplace free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the Diocese's commitment to a discrimination-free work environment. Sexual harassment is against the law,¹ and all employees have a legal right to a workplace free from sexual harassment. Employees are urged to report sexual harassment by filing a complaint internally with the Diocese. Employees can also file a complaint with a government agency or in court under federal, state and/or local antidiscrimination laws.

Policy:

1. The Diocese's policy applies to all employees, including clergy, applicants for employment, interns, whether paid or unpaid, contractors and persons conducting business, regardless of immigration status, with the Diocese. In the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. The Diocese will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of the Diocese who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees paid or unpaid interns, or non-employees² working in the workplace who believe they have been subject to such retaliation should inform a supervisor, manager, or one of the other individuals identified below in the Procedures for Reporting Harassment or Retaliation. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.

¹ While this policy specifically addresses sexual harassment, harassment of and discrimination against persons of all protected classes is prohibited. In New York State, such classes include age, race, creed, color, national origin, sexual orientation, military status, sex, disability, marital status, domestic violence victim status, gender identity or expression, familial status, predisposing genetic characteristics, and criminal history.

² A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the Diocese to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. The Diocese will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. The Diocese will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.
6. All employees are encouraged to report any harassment or behaviors that violate this policy. The Diocese will provide all employees a complaint form for employees to report harassment and file complaints.
7. Managers and supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to one or more of the individuals identified below in the Procedures for Reporting Harassment or Retaliation.
8. This policy applies to all employees, paid or unpaid interns, and non-employees, such as contractors, subcontractors, vendors, consultants, or anyone providing services in the workplace, and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

What Is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment based on sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful and can be any harassing conduct that consists of more than petty slights or trivial inconveniences. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment.
- Such conduct is made either explicitly or implicitly a term or condition of employment; or

- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or acts of 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, which interfere with the recipient's job performance.

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

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

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; and/or
 - 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; and/or
 - 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; and/or
- 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, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer, or visitor.

Where can sexual harassment occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

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.

Procedure for Reporting Suspected Sexual Harassment and/or Retaliation

Preventing sexual harassment is everyone's responsibility. The Diocese cannot prevent or remedy sexual harassment unless it knows about it. Any employee paid or unpaid, intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior as provided below. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior as provided below.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint can be found on the Mercer website (www.mercerschool.org) 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, paid or unpaid interns 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.

1. Reporting about clergy

If you believe that you have been the victim of any form of sexual harassment or retaliation by **CLERGY**, you should promptly give notice of your concern to one or more of the following:

- a. Your supervisor;
- b. A warden of the congregation;
- c. The Bishop; and/or
- d. **The Canon for Pastoral Care/Intake Officer** (Presently: The Rev. Canon Patricia Mitchell (pmitchell@dioceseli.org)).

For information about making a complaint against a member of the clergy, please go to the www.mercerschool.org/safechurch.

2. Reporting about non-clergy

If you believe that you have been the victim of any form of sexual harassment or retaliation by **NON-CLERGY**, you should promptly give notice of your concern to one or more of the following:

- a. Your supervisor;
- b. The rector or clergy person in charge of the congregation;
- c. A warden of the congregation; and/or
- d. The Bishop.

You are not required to complain to your supervisor or within your chain of command.

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

- a. A telephone call;
- b. A letter;
- c. An e-mail; and/or
- d. An in-person meeting.

Supervisory Responsibilities

All supervisors and managers of the Diocese who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to the Canon for Pastoral Care/Intake Officer or the Bishop, in a situation involving clergy, or the bishop in a situation involving non-clergy.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

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.

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. The Diocese 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 are expected to be done in accordance with the following steps:

- Upon receipt of complaint, the Diocese 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 texts, phone records and/or social media 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 next section.

Legal Protections And External Remedies

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

Aside from the internal process at the Diocese, 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-employees³, 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 three years** 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 Diocese does not extend your time to file with DHR or in court. The 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.

³ A non-employee is someone who is (or is employed by) a contractor, subcontractor, vendor, consultant, or anyone providing services in the workplace. Protected non-employees include persons commonly referred to as independent contractors, "gig" workers and temporary workers. Also included are persons providing equipment repair, cleaning services or any other services provided pursuant to a contract with the employer.

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.

Policy on Sexual Exploitation

(Adopted by The Diocesan Council, April, 2022)

The Diocese of Long Island (“The Diocese”) prohibits and will not tolerate sexual exploitation in any form. Exploitation involves an imbalance of power, such as employer over employee, strong over weak, spiritual leader over parishioner, and so on. It can be overt, such as where favors are given in return for sexual favors. It can be more subtle, such as where a sexual relationship develops between a church worker and someone under him or her in a pastoral, mentoring or supervisory relationship.

All Church Personnel, including members of the clergy, and all seminarians, postulants, candidates for holy orders, volunteers who regularly supervise youth activities, vestry members, all employees of this Diocese or of parishes, missions, chapels, or other Diocesan Units, key holders to any church property, the lay leaders of any group with regular access to church property or facilities are required to follow the Diocese policy prohibiting sexual exploitation.

What Is “Sexual Exploitation”?

Sexual exploitation includes pressuring or demanding individuals to provide sexual favors against their will, with the threat of denying assistance, withholding work support, or any other negative repercussions in the work-place or community.

Sexual exploitation is a type of abuse. It can manifest itself in a number of different forms, including the following:

- *Physical abuse* is non-accidental injury, which is intentionally inflicted.
- *Sexual abuse* perpetrated by an adult is any contact or activity of a sexual nature that occurs between a child⁴, youth⁵ or adult and an adult. This includes any activity, which is meant to arouse or gratify the sexual desires of the adult, child or youth.
- *Sexual abuse perpetrated by another child or youth* is any contact or activity of a sexual nature that occurs between a child or youth and another child or youth when there is no consent, when consent is not possible, or when one child or youth has power over the other child or youth. This includes any activity which is meant to arouse or gratify the sexual desires of any of the children or youth.
- *Emotional abuse* is mental or emotional injury to an adult, child or youth.
- *Neglect* is the failure to provide for a child or youth's basic needs or the failure to protect a child or youth from harm.
- *Economic exploitation* is the deliberate misplacement, exploitation, or wrongful temporary or permanent use of a child or youth's belongings or money.

Examples of sexual exploitation

Unwelcome conduct which may constitute sexual exploitation includes, but is not limited to, the following:

- inappropriate or lengthy embraces;
- kisses on the mouth;
- touching sexual areas of the body;
- showing affection while in isolated areas such as bedrooms, closets, staff-only areas or other private rooms;
- any form of unwanted affection;
- comments or compliments (spoken, written, or electronic) that relate to a person's body or appearance that are at all suggestive;
- giving gifts or money to favored individuals;
- repeated and/or private meetings with individual adults, especially meetings that occur away from church property and during non-business hours;
- repeated electronic communications, such as email or texts, especially those that contain personal disclosures or solicitations of an intimate relationship; and/or
- seeking excessive private time with a specific adult.

⁴ A "child" is anyone under the age of 12 years.

⁵ A "youth" is anyone who is at least 12 years old, but not yet 18 years old.

TO WHOM DOES THIS POLICY APPLY

1. Church Personnel

This policy applies to all of the following persons when they are functioning in their respective roles for the church:

- All clergy, whether stipendiary, non-stipendiary, or otherwise who are engaged in ministry or service to the church.
- Seminarians, postulants, and candidates for holy orders.
- All paid personnel whether employed in areas of ministry or other kinds of services by the diocese, its congregations, schools or other agencies.
- Those who contract their services to the diocese, its congregations, schools, or agencies.
- 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, and boards of directors.

Examples of Church Personnel include:

- Church School Teachers;
- Children's or youth choir directors;
- Organists who work with children or youth;
- Lay youth ministers;
- Volunteer youth directors;
- All Church Personnel who regularly work in the nursery;
- All Church Personnel who work in the nursery if they are the only person over 21 present at any time;
- Volunteers licensed under Canon III.4 (such as Lay Eucharistic Visitors);
- All staff, whether volunteer or paid, at church camps; and/or
- Adults who participate in overnight activities with children or youth more than twice a year.

2. Key Holders

Anyone who has unencumbered access to church-owned facilities.

REPORTING SUSPECTED SEXUAL EXPLOITATION

If you believe that you or someone else has been subjected to sexual exploitation, actions that violate this policy or inappropriate behavior, you may make your concerns known to the offending person if you are comfortable doing so, and you should report your concerns in accordance with the following:

1. Reporting about Clergy

If you believe that you have been the victim of any form of sexual exploitation by **CLERGY**, you should promptly give notice of your concern to one or more of the following:

- Your supervisor;
- A warden of the congregation;
- The Bishop; and/or
- The Canon for Pastoral Care/Intake Officer (Presently: The Rev. Canon Patricia Mitchell (pmitchell@dioceseli.org)).

2. Reporting about Non- Clergy

If you believe that you have been the victim of any form of sexual exploitation by **NON-CLERGY**, you should promptly give notice of your concern to one or more of the following:

- Your supervisor;
- The rector or clergy person in charge of the congregation;
- A warden of the congregation; and/or
- The Bishop.

You may formally or informally forward your concerns to the above via any of the following:

- A telephone call;
- A letter;
- An email;
- An in-person meeting; and/or
- Completion and submission of a complaint form (provide a link to the complaint form).

Church Personnel are **required** to report any suspected or known policy violations to the rector or clergy person in charge of the congregation. Diocesan personnel are **required** to report any policy violations to the Canon for Pastoral Care. All reports of sexual exploitation, policy violations, or inappropriate behavior under this policy will be taken seriously and reviewed and investigated promptly and impartially in accordance with the investigative procedures described in greater detail in the Diocese Policy on Sexual Harassment.

SCREENING

All Persons covered by this policy shall be screened and selected using the following tools and procedures:

1. Applicants for employment should, ideally, be known to the leadership of the congregation for at least six (6) months to a year.
2. Background Screening:
 - a. An application form;

- b. Criminal Records and Sexual Offender Registry Checks;
- c. Individual Interview; and/or
- d. Reference Checks.

EDUCATION AND TRAINING

Education and training on issues of Sexual Exploitation in Pastoral Relationships is required for all Church Personnel and all others who fall under the scope of this policy. Each parish or diocesan institution shall maintain a record of those who have attended such trainings.

The Diocese will provide necessary training for these individuals through in-person and online courses provided by the George Mercer, Jr. School of Theology. Individuals should attend re-training every 3 years. Retraining requirements are outlined on the Safe Church tab on the Mercer School website at www.mercerschool.org.

Evidence that parishes and institutions are complying with Safe Church training will be presented to the Bishop as part of all official Episcopal visitations.

IMPORTANT CONTACT INFORMATION

Episcopal Diocese of Long Island Intake Officer
The Rev. Canon Patricia S. Mitchell
Canon for Pastoral Care
pmitchell@dioceseli.org
516-248-4800 x 166

Safe Church Trainings within the
Diocese of Long Island
George Mercer School of Theology
516-248-4800 x 150

Sterling Infosystems, Inc.
Criminal background screens
To set up a parish account contact the Diocesan Offices 516-248-4800 x111 of
nignore@dioceseli.org.

New York State Office of Children and Family Services
Child Protective Services 24/hour hotline
1-800-342-3720

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