

## **NONDISCRIMINATION/ANTI-HARASSMENT POLICY AND COMPLAINT PROCEDURE**

### **OBJECTIVE**

The Roman Catholic Diocese of Burlington, all parishes, all schools, administrative offices and Vermont Catholic Charities, Inc. (are hereafter referred to as RCD) is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits unlawful discriminatory practices, including harassment. Therefore, RCD expects that all relationships among persons employed by RCD will be business-like and free of explicit bias, prejudice and harassment.

RCD has developed this policy to ensure that all its employees can work in an environment free from unlawful harassment, discrimination and retaliation. RCD will not tolerate unlawful discrimination or harassment of any kind. Through enforcement of this policy and by education of employees, RCD will seek to prevent, correct and discipline behavior that violates this policy.

### **SCOPE**

All employees, regardless of their positions and locations, are covered by and are expected to comply with this policy and to take appropriate measures to ensure that prohibited conduct does not occur. Appropriate disciplinary action will be taken against any employee who violates this policy. Based on the seriousness of the offense, disciplinary action may include verbal or written reprimand, suspension, or termination of employment.

Administrators, managers and supervisors who knowingly allow or tolerate discrimination, harassment or retaliation, including the failure to immediately report such misconduct to Diocesan Human Resources, are in violation of this policy and subject to discipline.

### **DEFINITION(S)**

- **Administrator** – for the purpose of this policy “administrator” or “administration” includes Pastors, Administrators, Clergy, Executive Directors, Principals, Assistant/Associate Principals and Home Administrators.
- **All Employees** – by direction of The Most Reverend Bishop Christopher J. Coyne, for the purpose of this policy, all employees include diocesan schools, parish schools, all parishes, Vermont Catholic Charities, Inc., and the Roman Catholic Diocese of Burlington employees. Independent Schools are strongly encouraged to adopt this policy.

## **EQUAL EMPLOYMENT OPPORTUNITY**

It is the policy of RCD to ensure equal employment opportunity without discrimination or harassment on the basis of age, ancestry, color, disability, national origin, place of birth, race, sex, marital status, or association with a member of a legally protected category listed above in so far as it aligns with the religious teachings of the Catholic church.

## **PROHIBITED CONDUCT UNDER THIS POLICY**

RCD, in compliance with all applicable federal, state and local anti-discrimination and harassment laws and regulations, enforces this policy in accordance with the following definitions and guidelines:

### **DISCRIMINATION**

It is a violation of RCD's policy to discriminate in the provision of employment opportunities, benefits or privileges; to create discriminatory work conditions; or to use discriminatory evaluative standards in employment if the basis of that discriminatory treatment is, in whole or in part, the person's age, ancestry, color, disability, national origin, place of birth, race, sex, marital status, or association with a member of a legally protected category listed above in so far as it aligns with the religious teachings of the Catholic church.

Discrimination of this kind may also be strictly prohibited by a variety of federal, state and local laws, including Title VII of the Civil Rights Act of 1964, the Age Discrimination Act of 1967 and the Americans with Disabilities Act of 1990. This policy is intended to comply with the prohibitions stated in these anti-discrimination laws in so far as they align with the teachings of the Catholic Church.

### **HARASSMENT**

For purposes of this policy, workplace harassment is a form of unlawful employment discrimination. Workplace harassment is unwelcome conduct based on membership in a protected category. Harassment becomes unlawful if enduring offensive conduct in the workplace is a condition of continued employment or if the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Under this policy, harassment is verbal, written or physical conduct that denigrates or shows hostility or aversion toward an individual because of person's age, ancestry, color, disability, national origin, place of birth, race, sex, marital status, or association with a member of a legally protected category listed above in so far as it aligns with the religious teachings of the Catholic church, and that:

- has the purpose or effect of creating an intimidating, hostile or offensive work environment
- has the purpose or effect of unreasonably interfering with an individual's work performance
- otherwise adversely affects an individual's employment opportunities.

The following examples of harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal harassment includes comments that are offensive or unwelcome regarding a person's age, ancestry, color, disability, national origin, place of birth, race, sex, marital status, or association with a member of a legally protected category listed above in so far as it aligns with the religious teachings of the Catholic church, including epithets, slurs and negative stereotyping.
- Nonverbal harassment includes distribution, display or discussion of any written or graphic material that ridicules, denigrates, insults, belittles or shows hostility, aversion or disrespect toward an individual or group because of person's age, ancestry, color, disability, national origin, place of birth, race, sex, marital status, or association with a member of a legally protected category listed above in so far as it aligns with the religious teachings of the Catholic church, that is placed on walls or elsewhere on the employer's premises or circulated in the workplace, on company time or using company equipment by e-mail, phone (including voice messages), text messages, social networking sites or other means.

RCD prohibits harassment of any kind, including sexual harassment, and will take appropriate and immediate action in response to complaints or knowledge of violations of this policy.

## **SEXUAL HARASSMENT**

Sexual harassment constitutes discrimination and is illegal under federal, state and local laws. For the purposes of this policy, "sexual harassment" is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example:

- submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment
- submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
- 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.

Title VII of the Civil Rights Act of 1964 recognizes two types of sexual harassment:

- quid pro quo – quid pro quo sexual harassment occurs when a harasser is in a position of authority over the person being harassed. In this type of harassment, the harasser is usually an employee's supervisor. The supervisor has power over an employee and can promise a job benefit or threaten to remove a job benefit as part of the proposed exchange.
- hostile work environment – sexual harassment that creates a hostile work environment includes words or actions that are so severe and pervasive that they create a work atmosphere that is abusive and intimidating.

Sexual harassment may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender. Sexual harassment may take different forms. The following examples of sexual harassment are intended to be guidelines and are not exclusive when determining whether there has been a violation of this policy:

- Verbal sexual harassment includes innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any type of sexual favor (this includes repeated, unwelcome requests for dates); and verbal abuse or "kidding" that is oriented toward a prohibitive form of harassment, including that which is sexual in nature and unwelcome.
- Nonverbal sexual harassment includes the distribution, display or discussion of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds; leering; staring; whistling; obscene gestures; content in letters, notes, facsimiles, e-mails, photos, text messages, tweets and Internet postings; or other forms of communication that are sexual in nature and offensive.
- Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, and forced sexual intercourse or assault.

Courteous, mutually respectful, pleasant, noncoercive interactions between employees that are appropriate in the workplace and acceptable to and welcomed by both parties are not considered to be harassment, including sexual harassment.

### **CONSENSUAL ROMANTIC OR SEXUAL RELATIONSHIPS**

This portion of the policy covers consensual romantic or sexual relationships, it does not replace policy on conflict-of-interest or nepotism. RCD prohibits romantic or sexual relationships between a manager or other supervisory employee and an employee who reports directly or indirectly to that person, because such relationships tend to create compromising conflicts of interest or the appearance of such conflicts. In addition, such a relationship may give rise to the perception by others that there is favoritism or bias in employment decisions affecting the staff employee. Moreover, given the uneven balance of power within such relationships, consent by the staff member is suspect and may be viewed by others, or at a later date by the staff member, as having been given as the result of coercion or intimidation. The atmosphere created by such appearances of bias, favoritism, intimidation, coercion or exploitation undermines the spirit of trust and mutual respect that is essential to a healthy work environment. If there is such a relationship, the parties need to be aware that one or both may be moved to a different department or other actions may be taken, including termination of employment.

If any employee of RCD enters into a consensual relationship that is romantic or sexual in nature with an employee who reports directly or indirectly to that employee, or if one of the parties is in a supervisory capacity in the same department in which the other party works, the parties must notify their supervisor and Diocesan Human Resources. Because of potential issues regarding quid pro quo harassment, RCD has made reporting mandatory. This requirement does not apply to employees who do not work in the same department or to parties where neither one supervises or otherwise manages responsibilities over the other.

Once the relationship is made known to the supervisor and Diocesan Human Resources, the situation will be reviewed in light of all the facts (reporting relationship between the parties, effect on co-workers, job titles of the parties, etc.) and determination will be made whether one or both parties need to be moved to another job or department. If it is determined that one party must be moved, and there are jobs in other departments available for both, the parties may decide who will be the one to apply for a new position. If the parties cannot amicably come to a decision, or the party is not chosen for the position to which he or she applied, the Diocesan Human Resources and Administration will decide which party will be moved. That decision will be based on which move will be least disruptive to the organization as a whole. If no other jobs are available for either party, the parties will be given the option of terminating their relationship or resigning.

### **INDIVIDUALS AND CONDUCT COVERED**

These policies apply to all applicants and employees, whether related to conduct engaged in by fellow employees or by someone not directly connected to RCD (e.g., an outside vendor, consultant or customer).

Conduct prohibited by these policies is unacceptable in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings and business-related social events.

### **RETALIATION**

RCD encourages reporting of all perceived incidents of discrimination or harassment. It is the policy of RCD to investigate such reports promptly and thoroughly. RCD prohibits retaliation against any individual who reports discrimination or harassment or participates in an investigation of such reports.

### **REPORTING AN INCIDENT OF DISCRIMINATION, HARASSMENT OR RETALIATION**

RCD encourages reporting of all perceived incidents of discrimination, harassment or retaliation, regardless of the offender's identity or position. Employees who believe that they have been the victim of such conduct should discuss their concerns with their immediate supervisor, the administration, or diocesan human resources. See the complaint procedure described below.

In addition, RCD encourages employees who believe they are being subjected to such conduct to promptly advise the offender that his or her behavior is unwelcome and to request that it be discontinued. Often this action alone will resolve the problem. RCD recognizes, however, that an individual may prefer to pursue the matter through a written complaint procedure.

### **WRITTEN COMPLAINT PROCEDURE**

Employees who believe they have been the victim of conduct prohibited by this policy or believe they have witnessed such conduct should discuss their concerns with their immediate supervisor, any member of the administration or the diocesan human resources.

Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. Responsive action may include, for example, training, referral to counseling or disciplinary action such as

a warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay or termination, as appropriate under the circumstances.

If a party to a complaint does not agree with its resolution, that party may appeal to the diocesan human resources or the Bishop of Burlington.

False and malicious complaints of harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) may be the subject of appropriate disciplinary action.

No hardship, loss, benefit or penalty may be imposed on an employee in response to:

- Filing or responding to a bona fide complaint of discrimination or harassment.
- Appearing as a witness in the investigation of a complaint.
- Serving as an investigator of a complaint.

Filing a bona fide written complaint will in no way be used against the employee or have an adverse impact on the individual's employment status. However, filing groundless or malicious complaints is an abuse of this policy and will be treated as a violation. Any person who is found to have violated this aspect of the policy will be subject to discipline up to and including termination of employment

RCD has established the following procedure for filing a written complaint of harassment, discrimination or retaliation. RCD will treat all aspects of the procedure confidentially to the extent reasonably possible.

1. Complaints should be submitted as soon as possible after an incident has occurred, preferably in writing to their immediate supervisor, any member of the administration, or the diocesan human resources.
2. Upon receiving a complaint or being advised that a violation of this policy may be occurring, the supervisor or administration will notify the diocesan human resources. The diocesan human resources will review the complaint with RCD's legal counsel.
3. The diocesan human resources will initiate an investigation to determine whether there is a reasonable basis for believing that the alleged violation of this policy occurred.
4. If necessary, the complainant and the respondent will be separated during the course of the investigation, either through internal transfer or administrative leave.
5. During the investigation, the diocesan human resources, together with legal counsel or other administration, will interview the complainant, the respondent and any witnesses individually.
6. Upon conclusion of an investigation, the diocesan human resources will submit a written report of his or her findings to the Bishop of Burlington. If it is determined that a violation of this policy has occurred, the diocesan human resources will recommend appropriate disciplinary action as part of the findings report. The appropriate action will depend on the following factors:
  - the severity, frequency and pervasiveness of the conduct
  - prior complaints made by the complainant
  - prior complaints made against the respondent; and
  - the quality of the evidence (e.g., firsthand knowledge, credible corroboration).

If the investigation is inconclusive or if it is determined that there has been no violation of policy, but potentially problematic conduct may have occurred, the diocesan human resources may recommend appropriate preventive action.

7. The administration will review the investigative report and any statements submitted by the complainant or respondent, discuss results of the investigation with the diocesan human resources and other administration as appropriate, and decide what action, if any, will be taken.
8. Once a final decision is approved by the Bishop of Burlington, the diocesan human resources will meet with the complainant and the respondent separately and notify them of the findings of the investigation. If disciplinary action is to be taken, the respondent will be informed of the nature of the discipline and how it will be executed.

## **CONFIDENTIALITY**

All complaints and investigations are treated confidentially to the extent possible, and information is disclosed strictly on a need-to-know basis. The identity of the complainant may be revealed to the parties involved during the investigation, and the diocesan human resources will take adequate steps to ensure that the complainant is protected from retaliation during and after the investigation. All information pertaining to a complaint or investigation under this policy will be maintained in secure files within the diocesan human resources department.

## **ALTERNATIVE LEGAL REMEDIES**

Nothing in this policy may prevent the complainant or the respondent from pursuing formal legal remedies or resolution through local, state or federal agencies or the courts. Employees are encouraged to file their complaint through RCD by informing their supervisor, department head, and/or diocesan human resources at 802-846-5846. The following agencies also process complaints of discrimination, harassment, and/or retaliation:

Vermont Attorney General's Office, Civil Rights Unit  
109 State Street  
Montpelier, VT 05609-1001  
1-888-745-9195 (Toll Free VT)  
802-828-3657  
[Ago.civilrights@vermont.gov](mailto:Ago.civilrights@vermont.gov)  
<https://ago.vermont.gov/employment-discrimination-form>

If you work for an RCD entity that has 15 or more employees, you may file a complaint with EEOC:

Equal Employment Opportunity Commission  
John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
1-800-669-4000  
<https://www.eeoc.gov//employees/charge.cfm>

*\*This policy replaces, revokes, and rescinds all former anti-discrimination and harassment policies, therefore, any modifications or changes to the utilization and administration of those policies is superseded by this new plan.*