



The United Synagogue of Conservative Judaism

Model Guidelines for Congregational

Policy against Harassment *

USCJ Vision

The United Synagogue of Conservative Judaism (USCJ) promotes the role of the synagogue in Jewish life in order to motivate Conservative Jews to perform *mitzvot* encompassing ethical behavior, spirituality, Judaic learning, and ritual observance.

-Adopted by the Board of Directors of the USCJ

Introduction

Integral to the concept of promoting ethical behavior as part of synagogue life is the need for all participants to conduct themselves in a manner that is above reproach. Whether they be professional staff or lay leaders, the need to relate to one another in an appropriate manner is essential to creating a viable, thriving community of congregations that promotes, nurtures and fosters a vibrant Conservative Jewish movement grounded in the teachings of the Torah.

Each professional and lay leader of a Conservative synagogue serves as a *dugma*, role model, whose behavior is expected to exemplify the highest standards of ethical and moral conduct in relationships with one another and with members of the congregation. Their conduct should be worthy of emulation. Those who hold positions of leadership in the congregation must be scrupulous to avoid *ma'arit ayin*, even the appearance of impropriety.

Our rabbis and cantors, as religious leaders and educators, should exemplify holiness in their teachings and should recognize the vulnerability of those they teach and counsel as well as the need to maintain appropriate

* These Guidelines are not intended as legal advice. Because laws may differ from place to place on the matters covered in the Guidelines, the USCJ recommends that the congregation review these Guidelines with local counsel before implementing them in order to ensure compliance with applicable laws.

boundaries in their relationships with congregants. In similar ways, our educators and youth advisors should recognize this in their dealings with the youth of our congregation. They strongly influence the intellectual and moral development of young people, who look up to them as examples to follow as they grow into adulthood. As professional communal leaders, they should remember that their relationships with congregants are not those of equals; any action that seeks to exploit these relationships may constitute a breach of their authority or create actual impropriety or the appearance of it. Lay leaders of the congregation also hold positions of trust. They, too, must insure that their actions are always motivated by the needs of their constituents and not by self-interest.

The same standards of conduct also apply to the relationships between the professionals and lay leaders of the synagogue and their respective employees. Those working for us should not be subject to conduct that we ourselves would not find acceptable. It is incumbent upon us to insure that appropriate standards of behavior are clearly enunciated so that there will be no misunderstanding as to the way in which we expect our employees and leaders to relate to one another and to their constituents.

Policy against Harassment

The congregation 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 and ethical atmosphere that promotes equal employment opportunities and prohibits any form of harassment.¹ The congregation expects that relationships among all persons employed by the congregation be free from any form of harassment.

It is therefore the expressed policy of the congregation to provide a work environment free of sexual harassment or harassment based on such other factors as race, sex, color, religion, national origin, ancestry, age, medical condition, marital status, physical handicap, mental handicap, sexual orientation, veteran status or any other characteristic protected by law. In some instances, however, an individual's religious beliefs and practices are a bona fide occupational qualification for a particular position and may be taken into account in making employment decisions.

The congregation is also committed to fostering a synagogue environment in which professionals, employees and lay leaders provide services to members in an atmosphere that is not hostile, offensive or intimidating to the congregant.

Individuals and Conduct Covered

These policies apply to all employees, including but not limited to professionals of the congregation such as the rabbi, cantor, executive director, administrator, education director, teacher, youth director or advisor; any other person employed or contracted by the congregation to provide religious, educational, youth or other services for the congregation; and lay leaders and officers of the congregation. They prohibit harassment, discrimination and retaliation whether engaged in by these individuals or by someone not directly connected to the congregation.

Conduct prohibited by these policies is unacceptable in the offices or other facilities of the synagogue; in any synagogue-related setting outside of the actual offices of the synagogue, such as during related trips, meetings and social events; or in the homes or offices of synagogue members where related services are being provided.

Retaliation Is Prohibited

The congregation prohibits retaliation against any individual who reports harassment or participates in an investigation of such reports. Retaliation against an individual for reporting harassment or for participating in an investigation of a claim of harassment is a serious violation of this policy and, like harassment itself, will be subject to disciplinary or other corrective action.

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 unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment by the congregation or participation by a congregant in the communal life of the synagogue;
2. Submission to or rejection of such conduct by an employee or congregant is used as the basis for employment decisions affecting such employee or participation in or entitlement to synagogue services by the congregant; or

3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, creating an intimidating, hostile or offensive working environment, or creating an environment that is intimidating, hostile or offensive to a congregant or guest of the synagogue.

Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to:

1. Unwanted sexual advances or requests for sexual favors;
2. Sexual jokes and innuendo;
3. Verbal abuse of a sexual nature;
4. Commentary about an individual's body, sexual prowess or sexual deficiencies;²
5. Leering, catcalls or touching;
6. Insulting or obscene comments or gestures;
7. Display or circulation of sexually suggestive objects or pictures (including through e-mail); or
8. Other physical, verbal or visual conduct of a sexual nature.

In connection with sexual contact between a professional employee, other employee or lay leader, and a congregant of the synagogue, sexual harassment includes, but is not limited to, any of the following:

1. Contacts of a physical nature between adults in an unequal relationship that may involve inappropriate touching, embraces or assault, verbal suggestions of sexual involvement or sexually demeaning comments, or sexual relations;
2. Activity such as dating during the course of a counseling relationship between a professional employee and a congregant;
3. Sexual contact of any nature with a minor or legally incompetent person;
4. Rape or sexual contact by force, threat or intimidation; or

5. Other generally unwelcome behaviors or unwanted attention of a sexual nature, including hugs and kisses.

Harassment Based on Other Protected Characteristics

Harassment on the basis of any other protected characteristic is also strictly prohibited. Under this policy, such harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, sex, national origin, age, disability, citizenship, sexual orientation, marital status or any other characteristic protected by law or that of his/her relatives, friends or associates, and that:

1. Has the purpose or effect of creating an intimidating, hostile or offensive environment;
2. Has the purpose or effect of unreasonably interfering with an individual's work performance or a congregant's participation in synagogue activities or receipt of services; or
3. Otherwise adversely affects an individual's employment opportunities or the congregant's participation in synagogue activities or receipt of services.

Other Forms of Harassment

Harassment can also be other verbal or physical conduct that denigrates or shows hostility or aversion toward an individual, or has the purpose and effect of unreasonably interfering with the employee's ability to perform his or her job by creating an environment that is offensive to the employee.

Examples of such conduct include, but are not limited to, the following:

1. Epithets, slurs or negative stereotyping;
2. Threatening, intimidating, bullying or hostile acts; or
3. Denigrating jokes and display or circulation of written or graphic material that denigrates or shows hostility or aversion toward an individual or group (including through e-mail).

Guiding Principles in Professional Relationships

The work of the professional in the congregation, in particular the rabbi and cantor, often of necessity involves conveying empathy, connection and warmth. This can sometimes create a dilemma in forming appropriate relationships with congregants. It is the primary responsibility of the professional to establish and preserve appropriate boundaries in these relationships.³ Professionals and lay leaders alike who attempt to be supportive of a congregant must recognize that the way in which their support is conveyed can be misinterpreted. They must be especially sensitive to the danger of misperception and must avoid any behavior that a congregant could reasonably misconstrue. Just the appearance of impropriety can cause a problem for the professional and the congregation. Therefore, it is best to err on the side of caution. While care and concern for the congregant should not be sacrificed, a balance, though often difficult to achieve, should be maintained. In doing so, the professional and lay leader should be sensitive to appropriate locations, hours and the nature of their interactions and physical contact with a congregant.

Therefore, *when relating to a child, when interacting with a teenager, when counseling an adult, or when working with a volunteer*, the professional, as well as the employee and the lay leader, should avoid being in a situation where there is no other person in the vicinity. A door should always be open. A third party should always be in plain view. A third party should always be within "earshot."

The following steps should be followed when interacting with a child or teen:

1. Have another adult in the room during private lessons.
2. If that is not possible, an effort should be made to teach with at least two students in the room.
3. If one has no choice but to work with the person individually, it should be done in an open area where there is a flow of traffic.
4. Avoid physical contact with the individual, especially when alone in the room.
5. Do not sit side by side or otherwise in extremely close proximity. Keep a reasonable distance between yourself and your student.
6. Do not give a child or teen a ride home after a session/lesson. If it is unavoidable, have the person sit in the back seat of the vehicle.

7. Private lessons should not be given in your home or in the home of the student unless another adult is also present.

Reporting Harassment

Any staff member who believes that he or she has been the subject of harassment should promptly report the incident. Staff members should make their report either to their immediate supervisor (if the supervisor is not the source of the harassment), or to the president of the synagogue. A staff member is not required to complain to his or her supervisor first, whether or not it is the supervisor who is engaging in the harassment.

A congregant of the synagogue should make the report to the president of the congregation or, if the president is the person who is allegedly harassing the member, the member should inform the next highest-ranking officer of the synagogue.

Early reporting and intervention can be most effective in resolving actual or perceived incidents of harassment. While no fixed reporting period has been established, the congregation strongly urges prompt reporting of complaints or concerns so that rapid and constructive actions can be taken.

The availability of this procedure does not preclude individuals who believe they are being subjected to harassing conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that it be stopped immediately.

Investigative Process

The congregation will conduct a prompt, thorough, and objective investigation of any report of harassment or retaliation. All allegations will be taken seriously. Every effort will be made to maintain confidentiality throughout the investigation process to the extent practical and appropriate under the circumstances. Information will be shared only on a need-to-know basis for the purpose of conducting an investigation or as required by law. Every effort will also be made to preserve the anonymity of the complainant's identity. However, neither anonymity nor absolute confidentiality can be guaranteed. All of those involved in the process of investigating a complaint will be instructed to respect and maintain the confidentiality of information received during the process.

The investigative process is designed, and should be applied, to promote fairness to the complainant, the respondent, and the congregation.⁴ The investigation may include, among other things, individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.

All cases of suspected child abuse should be reported immediately to the appropriate governmental authorities. All complainants will be urged to notify governmental authorities whenever criminal conduct is alleged. All employees, officers, lay leaders, professionals and others authorized to act on behalf of the congregation will cooperate fully with any governmental authority charged by law with investigating allegations of child or sexual abuse.

Those conducting any investigation of an alleged violation of this policy should withhold judgment about what occurred until the congregation has completed its investigation. Statements or actions that impugn the integrity or motives of the complainant should be avoided. Similarly, judgments about the guilt or innocence of the respondent should be avoided until the investigation has been completed.

Both the complainant and the respondent should be informed of the process and procedure that the congregation will be using to investigate the complaint, as well as the identity of a person to whom questions about this process may be directed.

Procedure for Investigating a Complaint

The following procedure shall be used to investigate any complaint of harassment received by the congregation. It is designed to promote a fair and prompt response to a congregant's concerns. The investigation will not be governed by any formal rules of legal procedure or evidence. This procedure is purposely informal in nature in order to promote direct communication between the congregation and the parties to the complaint, without the involvement of counsel, and requests by either the complainant or the respondent to be represented by counsel during the investigation shall not be honored. It must likewise be remembered, however, that every case is different. Therefore, the congregation reserves the right to modify these procedures to better suit the unique facts of a given case when deemed appropriate.

1. As soon as practicable after first receiving notice of the alleged harassment, the president shall convene a meeting of the executive committee (or of such other standing or ad hoc committee as the bylaws of the congregation may provide) to report such allegations and to initiate an investigation. The executive committee may designate a special committee to

conduct an investigation and report its findings to the executive committee. If a special committee is appointed to conduct the investigation, the words "special committee" shall be substituted hereafter for the phrase "executive committee" when referring to the investigating body. A person accused of harassment may not participate in the investigation or any executive committee deliberations on the matter.

2. Minutes of the meeting should be maintained, along with a log of all telephone contacts. The minutes should be maintained in a secure and confidential manner and should be password-protected on the computer.

3. Depending on the nature of the allegation and the composition of the executive committee, the executive committee may elect to obtain the assistance of counsel, human resource professionals, clergy, or psychologists/psychiatrists in conducting the investigation.

4. If the meeting is convened because a complainant has lodged a complaint under this policy, the executive committee should arrange to meet with the complainant as soon as possible. If no complainant has come forward with a complaint but the president nevertheless becomes aware of credible information concerning harassment, the executive committee should encourage the person perceived to be a possible victim to come forward so that the executive committee can determine if an investigation is warranted or, if criminal conduct may be involved, to notify appropriate authorities.

5. Prior to the meeting, efforts should be made to provide the complainant with a copy of this policy and to determine if the complainant needs assistance or support to participate in the process.

6. At the initial meeting with the complainant, the executive committee should, at a minimum:

- (a) Review and explain this policy;
- (b) Ask the complainant to acknowledge in writing that he or she has read, understands, and has received a copy of this policy;
- (c) Determine the extent to which the complainant wishes to remain anonymous or to keep information about the alleged harassment confidential, and explain the synagogue's policy toward anonymity and confidentiality; how, when and to whom the person's identity and accusations may be revealed throughout the process needs to be clearly discussed with the complainant before an investigation commences;

- (d) Ask the complainant to describe what allegedly occurred in as much detail as possible;
- (e) Ask the complainant whether he or she is aware of any other person who may have had similar experiences; and
- (f) If the investigative process moves forward, name a single point-of-contact for the complainant.

7. After the meeting, the executive committee should, at minimum:

- (a) Determine whether to contact legal counsel and the congregation's insurance carrier;
- (b) Encourage the complainant to contact appropriate authorities if, for example, the allegations involve possible criminal conduct;
- (c) Prepare a written summary of the information supplied by the complainant at the meeting. The summary should avoid speculation, characterizations, and the drawing of conclusions. It should be as factual as possible (i.e., who, what, why, where, when, etc.);
- (d) Share the written summary with the complainant and ask the complainant to make corrections to the document and to sign it. A failure to sign the document or to pursue the matter further should be noted in the file; and
- (e) Determine if there is sufficient credible information to pursue further investigation. If the executive committee determines that the information is not credible or that the information does not constitute a violation of this policy, it should notify the complainant of its determination and advise the complainant of the right to appeal to the board.

8. Even if the complainant elects not to pursue formal disciplinary charges against a professional, an employee or a lay leader, the executive committee should continue its investigation if, on the basis of the complaint and initial investigation, it has continuing concern about the fitness of the professional, employee or lay leader to remain employed by, or to remain in an unpaid position of authority with, the congregation.

9. After the executive committee has completed its initial investigation and has determined that further investigation is warranted, it

should meet as soon as practicable with the respondent. If the respondent refuses to participate, the executive committee should advise the respondent that it will render its decision on the basis of the information provided by the complainant and such other information as the executive committee may secure through independent means.

10. At the initial meeting with the respondent, the executive committee should, at minimum:

- (a) Review and explain this policy;
- (b) Ask the respondent to acknowledge in writing that he or she has read, understands, and has received a copy of this policy; and
- (c) Ask the respondent to describe the nature of his or her relationship with the complainant and to respond to the allegations as well as such other information as the executive committee may possess as a result of any preliminary investigation it may have conducted. A copy of the complaint and written summary of the interview with the complainant should not be shared with the respondent.

11. After the meeting with the respondent, the executive committee should, at a minimum:

- (a) Prepare a written summary of the information supplied by the respondent at the meeting. The summary should avoid speculation, characterizations, and the drawing of conclusions. It should be as factual as possible (i.e., who, what, why, where, when, etc.); and
- (b) Share the written summary with the respondent and ask the respondent to make corrections to the document and to sign it. A failure to sign the document should be noted in the file.

12. At any stage of the investigation described above, the executive committee may determine if the respondent should be suspended with or without pay pending further investigation. If the respondent is a lay leader, the executive committee may determine if the respondent should be relieved of his or her responsibilities pending further investigation. The executive committee shall report the action it has taken to the board of directors.

Responsive Action

Upon completion of its investigation, the executive committee shall convene to determine what action, if any, it should recommend to the board of directors. A special meeting of the board of directors may be called for this purpose. The confidentiality of the complainant shall be preserved in accordance with this policy.

Once the congregation has determined what action should be taken to remedy a complaint, the decision shall be communicated to the complainant, the respondent, and, as appropriate, any other individuals who are directly concerned. With regard to professionals and employees, such action may include a verbal warning documented to the file, a written warning, a suspension with or without pay, termination, or such other action as the board deems appropriate. With regard to lay leaders, board action may include removal from positions of authority, loss of congregational membership, or such other action as the board deems appropriate.

If criminal charges relating to a sexual offense are filed against a professional or an employee, he or she shall be suspended immediately; if such charges are filed against a lay leader, he or she shall be relieved immediately of all congregational responsibilities, pending the outcome of the criminal charges.

In addition, the congregation will take steps to prevent further harassment and appropriate action, to the extent required by law, to remedy any loss sustained by the complainant.

Conclusion: Walking Humbly... Behaving Morally

As Jews, we are exhorted to "walk humbly with God" (Micah 6:8).⁵ The Rabbis of the Talmud explain that this requires every Jew to act with modesty and decency. By implementing this policy, we strive to insure that our congregants and all of our employees can interact in an environment free from harassment and grounded in the teachings of Torah to insure fairness and dignity in resolving conflicts among them.⁶

¹ In terms of civil law, sexual harassment is clearly prohibited. This is a parallel to the Talmudic dictum that *deena d'malchuta deena*, the law of the land is (religious) law as well. An additional operative rabbinic principle prohibiting harassment and *busha b'farhesya*, shaming a fellow human being in public, is *mesirat nefesh*, meaning to give of oneself unstintingly, without concern for personal interests.

² The section of the policy that prohibits teasing, jokes, or commentary about a person's body, sexual prowess, or any sort of verbal abuse, besides being *lashon ha'ra*, gossip and slander, may also constitute *lo'eg la'rash*, mocking the unfortunate.

³ The concept of *lifnei iver lo titein mikshol*, do not place a stumbling-block before the blind, is applicable here. If a person comes to a synagogue professional and bares his or her soul in a counseling relationship, to exploit that relationship for one's personal agenda is base and ungodly. As it states in *Pirkei Avot 2:4*, "Do God's will as if it were your will, so that God will do your will as if it were God's will."

⁴ In all areas, the principle of *shem tov mi'shemen tov*, a good name is better than precious oil, must be respected. The reputation of a human being, once besmirched, can never be completely restored to its formerly pristine state.

⁵ *Micah* (6:8): "It has been told you, O man, what is good, and what the Lord requires of you; only to do justly, to love mercy and to walk humbly with your God."

⁶ The goal of this policy is to create an open and free atmosphere in which all people are respected as having been created *B'tselem Elohim*, in the image of God, and in which conflicts can be resolved in the spirit of fairness and Torah."

Editor's Note:

Portions of this policy are based on similar documents enacted by Chisuk Emuna Congregation in Harrisburg, PA, the Cantors Assembly (CA) and the North American Association of Synagogue Executives (NAASE). Special thanks to Rabbi Ron Muroff and Carl Shuman, Esq., of Chisuk Emuna, Cantor Stephen Stein, Executive Vice President of the CA, and Judith Kranz, Honorary President of NAASE, for their insight in drafting this statement. Special thanks also to Rabbis Moshe Edelman and Jerry Epstein for their guidance in developing these model guidelines. And lastly, my sincere appreciation to Bill Bresnick, Gloria Landy, and Phyllis Haas, who were members of a special subcommittee of the Committee on Congregational Standards of USCJ, chaired by Eugene Zinbarg, Esq., for their assistance and support throughout the process of developing this congregational policy.

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January 2004/Tevet 5764