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## I. PURPOSE

The purpose of this policy is to maintain a learning and working environment that is free from harassment and violence on the basis of the following reasons: race, color, creed, religion, national origin, sex, age, marital status, familial status, status with regard to public assistance, sexual orientation, including gender identity or expression, or disability (hereinafter, “the reasons”).

## II. GENERAL STATEMENT OF POLICY

A. The policy First Lutheran Church (hereinafter, “FLC”) is to maintain an environment that is free from harassment and violence on the basis of the reasons noted above.

B. A violation of this policy occurs when any student(s), volunteer(s), or FLC staff members(s) harass(es) a student(s), volunteer(s), or FLC staff member(s) through conduct or communication based on a person’s rights as noted above. For purposes of this policy, FLC staff members include Church Council (hereinafter, “Council” members, agents, other volunteers, contractors, or individuals subject to the supervision and control of FLC.

C. A violation of this policy also occurs when any student(s), volunteer(s), or other FLC staff member(s) inflicts, threatens to inflict, or attempts to inflict violence upon any student(s), volunteer(s), or FLC staff member(s) based on the reasons.

D. FLC will act to investigate all complaints—either formal or informal, verbal or written— of harassment or violence based on the reasons and to discipline or take appropriate action against any student(s), volunteer(s), or FLC staff member(s) who is found to have violated this policy.

## III. DEFINITIONS

A. “Assault” is

1. an act done with intent to cause fear in another of immediate bodily harm or death;
2. the intentional infliction of or attempt to inflict bodily harm upon another; or
3. the threat to do bodily harm to another with present ability to carry out the intent.

B. “Harassment” prohibited by this policy consists of physical or verbal conduct—including, but not limited to, electronic communications relating to the reasons applicable to the individual when the conduct:

1. has the purpose or effect of creating an intimidating, hostile, or offensive learning or working environment;

2. has the purpose or effect of substantially or unreasonably interfering with an individual's learning or work performance; or
3. otherwise adversely affects an individual's learning or employment opportunities.

C. "Immediately" means as soon as possible but, in no event, longer than 24 hours.

#### D. Protected Classifications—Definitions

1. "Disability" means any condition or characteristic that renders a person a disabled person. A "disabled person" is any person who:

- a. has a physical, sensory, or mental impairment which materially limits one or more major life activities;
- b. has a record of such an impairment; or
- c. is regarded as having such an impairment.

2. "Familial status" means the condition of one or more minors being domiciled with:

- a. their parent(s) or the minor's legal guardian(s); or
- b. the designee of the parent(s) or guardian(s) with the written permission of the parent(s) or guardian(s). The protections afforded on the basis of family status apply to any person who is pregnant or is in the process of securing legal custody of an individual who has not attained the age of majority.

3. "Marital status" means whether a person is single, married, remarried, divorced, separated, or a surviving spouse and, in employment cases, includes protection against harassment on the basis of the identity, situation, actions, or beliefs of a spouse or former spouse.

4. "National origin" means the place of birth of an individual or of any of the individual's lineal ancestors.

5. "Sex" includes, but is not limited to, pregnancy, childbirth, and disabilities related to pregnancy or childbirth.

6. "Sexual orientation" means having or being perceived as having an emotional, physical, or sexual attachment to another person without regard to the sex of that person or having or being perceived as having an orientation for such attachment, or having or being perceived as having a self-image or identity not traditionally associated with one's biological maleness or femaleness. "Sexual orientation" does not include a physical or sexual attachment to children by an adult.

7. "Status with regard to public assistance" means the condition of being a recipient of federal, state, or local assistance, including medical assistance, or of being a tenant receiving federal, state, or local subsidies, including rental assistance or rent supplements.

E. “Remedial response” means a measure to stop and correct acts of harassment or violence, prevent acts of harassment or violence from recurring, and protect, support, and intervene on behalf of an individual who is the target or victim of acts of harassment or violence.

#### F. Sexual Harassment—Definition

1. Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature when:

- a. submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining employment or advancement; or
- b. submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting the individual’s employment or advancement; or
- c. that conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual’s employment or advancement, or creating an intimidating, hostile, or offensive environment.

2. Sexual harassment may include, but is not limited to:

- a. unwelcome verbal harassment or abuse;
- b. unwelcome pressure for sexual activity;
- c. unwelcome, sexually motivated, or inappropriate patting, pinching, or physical contact, other than necessary restraint of students by volunteers or FLC staff members to avoid physical harm to persons or property;
- d. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt threats concerning an individual’s employment status or advancement;
- e. unwelcome sexual behavior or words, including demands for sexual favors, accompanied by implied or overt promises of preferential treatment; or
- f. unwelcome behavior or words directed at an individual because of sexual orientation, including gender identity or expression.

#### G. Sexual Violence—Definition

1. Sexual violence is a physical act of aggression or force or the threat thereof which involves the touching of another’s intimate parts or forcing a person to touch any person’s intimate parts. “Intimate parts,” as defined in Minnesota Statute 609.341, includes the primary genital area, groin, inner thigh, buttocks, or breast, as well as the clothing covering these areas.

2. Sexual violence may include, but is not limited to:

- a. touching, patting, grabbing, or pinching another person’s intimate parts, whether that person is of the same sex or the opposite sex;

- b. coercing, forcing, or attempting to coerce or force the touching of anyone's intimate parts;
- c. coercing, forcing, or attempting to coerce or force sexual intercourse or a sexual act on another; or
- d. threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse, on another.

#### H. Violence—Definition

Violence prohibited by this policy is a physical act of aggression or assault upon another or group of individuals because of, or in a manner reasonably related to, the reasons.

#### I. Retaliation—Definition

“Retaliation” includes, but is not limited to, any form of intimidation, reprisal, harassment, or intentional disparate treatment. Disciplinary consequences will be sufficiently severe to deter violations and to appropriately discipline the individual(s) who engaged in the harassment or violence. Remedial responses to the harassment or violence shall be tailored to the particular incident and nature of the conduct.

### IV. REPORTING PROCEDURES

A. Any person who believes he/she has been the target or victim of harassment or violence on the basis of the reasons by a FLC student(s), volunteer(s), or staff member(s), or any person with knowledge or belief of conduct which may constitute harassment or violence prohibited by this policy should report the alleged acts immediately to the Senior Pastor, Council President, or Chairperson of the Staff Support Committee. A person may report conduct which may constitute harassment or violence anonymously. However, FLC may not rely solely on an anonymous report to determine discipline or other remedial responses.

B. FLC encourages the reporting party or complainant to use the report form available from the Senior Pastor, the church office, or by accessing the following link, <http://www.flcstp.org/sexual-harassment-reporting.html>, but oral or other written reports will be considered complaints as well.

C. The Senior Pastor, the Council President, or the Chairperson of the Staff Support Committee (hereinafter, the “report-taker”) is the person responsible for receiving oral or written reports of harassment or violence prohibited by this policy. However, any FLC student, volunteer, or staff member who receives a report of harassment or violence prohibited by this policy must inform the report-taker immediately. The report-taker shall ensure that this policy and its procedures, practices, consequences, and sanctions are fairly and fully implemented and shall serve as a primary contact regarding policy and procedural matters.

D. FLC volunteers and staff members shall be particularly alert to possible situations, circumstances, or events that might include acts of harassment or violence. Any such person who witnesses, observes, receives a report of, or has other knowledge or belief of conduct that may constitute harassment or violence shall make reasonable efforts to address and resolve the harassment or violence and shall inform the report-taker immediately. FLC volunteers or staff members who fail to inform the report-taker of conduct that may constitute harassment or violence or who fail to make efforts to address and resolve the harassment or violence in a timely manner may be subject to disciplinary action.

E. Upon receipt of a report, the report-taker must notify the Council immediately, without screening or investigating the report. The report-taker may request, but may not insist upon, a written complaint. A written statement of the facts alleged must be forwarded as soon as practicable by the report-taker to the Council. If the report was given verbally, the report-taker shall personally reduce it to written form within 24 hours and forward it to the Council. Failure to forward any harassment or violence report or complaint as provided herein may result in disciplinary action against the report-taker.

F. FLC shall conspicuously post the names of the report-takers, including mailing addresses and telephone numbers.

G. Submission of a good faith complaint or report of harassment or violence prohibited by this policy will not affect the complainant or reporter's future employment, advancement, work assignments, or educational or work environment.

H. Use of formal reporting forms is not mandatory.

I. Reports of harassment or violence prohibited by this policy are considered to be personnel data and/or confidential investigative data and will not be disclosed except as permitted by law.

J. FLC will respect the privacy of the complainant(s), the individual(s) against whom the complaint is filed, and the witness(es) as much as possible, consistent with FLC's legal obligations to investigate, to take appropriate action, and to comply with any discovery or disclosure obligations.

K. Retaliation against a complainant, good faith reporter, or a witness of harassment or violence is prohibited.

L. False accusations or reports of harassment or violence against another person are prohibited.

M. A person who engages in an act of harassment or violence, reprisal, retaliation, or false reporting of harassment or violence, or permits, condones, or tolerates harassment or violence shall be subject to discipline or other remedial responses for that act in accordance with FLC's policies and procedures.

Consequences for students or volunteers who commit, or are a party to, prohibited acts of harassment or violence or who engage in reprisal or intentional false reporting may range from remedial responses or positive behavioral interventions up to and including removal.

Consequences for FLC staff members who permit, condone, or tolerate harassment or violence or engage in an act of reprisal or intentional false reporting of harassment or violence may result in disciplinary action up to and including termination.

Consequences for other individuals engaging in prohibited acts of harassment or violence may include, but not be limited to, exclusion from FLC property and events and/or termination of services and/or contracts.

## V. INVESTIGATION

A. By authority of the Council, the report-taker, within 3 days of the receipt of a report alleging harassment or violence prohibited by this policy, shall undertake or authorize an investigation. The investigation may be conducted by the report-taker or a third party designated by the Council.

B. The investigation may consist of personal interviews with the complainant, the individual(s) against whom the complaint is filed, and others who may have knowledge of the alleged incident(s) or circumstances giving rise to the complaint. The investigation may also consist of any other methods and documents deemed pertinent by the investigator.

C. In determining whether alleged conduct constitutes a violation of this policy, the Council should consider the surrounding circumstances, the nature of the behavior, past incidents or past or continuing patterns of behavior, the relationships between the parties involved, and the context in which the alleged incidents occurred. Whether a particular action or incident constitutes a violation of this policy requires a determination based on all the facts and surrounding circumstances.

D. In addition, the Council may take immediate steps, at its discretion, to protect the complainant and others pending completion of an investigation of alleged harassment or violence prohibited by this policy.

E. The alleged perpetrator of the act(s) of harassment or violence shall be allowed the opportunity to present a defense during the investigation or prior to the imposition of discipline or other remedial responses.

F. The investigation will be completed as soon as practicable. The investigator shall make a written report to the Council upon completion of the investigation. If the complaint involves the report-taker, the report may be filed directly with the Council. The report shall include a

determination of whether the allegations have been substantiated as factual and whether they appear to be violations of this policy.

#### V. COUNCIL ACTION

A. Upon completion of an investigation that determines a violation of this policy has occurred, the Council will take appropriate action. Such action may include, but is not limited to, warning, suspension, exclusion, remediation, or termination. Disciplinary consequences will be sufficiently severe to try to deter violations and to appropriately discipline prohibited behavior. Council action taken for violation of this policy will be consistent with Minnesota and federal law and applicable Council policies and regulations.

B. The Council is not authorized to disclose to a complainant private data regarding an alleged perpetrator who is a student in or employee of FLC. The Council will notify the parent (s) or guardian(s) of students who are targets or victims of harassment or violence and the parent(s) or guardian(s) of students who are alleged perpetrators of harassment or violence who have been involved in a reported and confirmed harassment or violence incident of the remedial or disciplinary action taken, to the extent permitted by law.

#### VII. RETALIATION OR REPRISAL

The Council will discipline or take appropriate action against any FLC student, volunteer, or staff member who commits an act of reprisal or who retaliates against any person who asserts, alleges, or makes a good faith report of alleged harassment or violence prohibited by this policy, who testifies, assists, or participates in an investigation of retaliation or alleged harassment or violence, or who testifies, assists, or participates in a proceeding or hearing relating to such harassment or violence.

#### VIII. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual to pursue other avenues of recourse which may include filing charges with the Minnesota Department of Human Rights, initiating civil action, or seeking redress under state criminal statutes and/or federal law.

#### IX. HARASSMENT OR VIOLENCE AS ABUSE

A. Under certain circumstances, alleged harassment or violence may also be possible abuse under Minnesota law. If so, the duties of reporting under Minnesota Statute 626.556 may be applicable.

B. Nothing in this policy will prohibit the Council from taking immediate action to protect complainants of alleged harassment, violence, or abuse.

X. DISSEMINATION OF POLICY

- A. This policy shall be conspicuously posted in the church office.
- B. This policy shall be given to each FLC staff member and independent contractor who does business with FLC.
- C. This policy shall appear in the "FLC Policy Manual."
- D. This policy shall be reviewed periodically for compliance with state and federal law.