

**First Narayever Congregation
Workplace Discrimination, Harassment, Sexual Harassment and Bullying
Policy**

DATED MARCH 12, 2018

POLICY STATEMENT

The First Narayever Congregation (“FNC”) is committed to creating and maintaining a work, learning and spiritual environment in which all individuals are treated with dignity and respect, provided with equal treatment and opportunity, and are free from unlawful harassment and discrimination.

FNC recognizes that all FNC employees and members have the right to work and relate with each other in an environment free from unlawful workplace discrimination, harassment, sexual harassment, and bullying. All FNC employees and members have a responsibility to respect the dignity and human rights of all persons in the community. FNC will not tolerate unlawful workplace harassment, discrimination, or sexual harassment or bullying behaviours.

FNC is also committed to an environment free of bullying and therefore when bullying occurs, FNC is committed to taking action appropriate to the specific incident. Depending on the severity of the incident, the employee(s) involved will be disciplined or their employment with FNC may be terminated.

The foregoing policy objectives are set out in this Workplace Discrimination, Harassment, Sexual Harassment and Bullying Policy (the “Policy”).

PURPOSE

FNC recognizes the dignity and worth of every person. Our goal is to create a work, learning and spiritual environment which is free from discrimination, harassment, sexual harassment and bullying and where all employees, congregants, guests and visitors are treated with dignity, courtesy and respect. To help achieve this goal, FNC will:

- ensure that all complaints of harassment, discrimination, sexual harassment, and bullying are dealt with confidentially and objectively and that the rights of all parties are respected; and
- provide the organization with fair and consistent procedures for dealing with complaints of discrimination, harassment, sexual harassment, and bullying.

SCOPE OF POLICY

(a) To Whom Does the Policy Apply?

This Policy applies to all FNC congregants, visitors, guests, employees (including full-time, part-time, and casual or temporary employees), contract or commission workers, the full-time rabbi, members of the Board of Governors (the “Board”), volunteers, shinshinim, and vocational and work experience placements (hereinafter collectively referred to as “Members”).

(b) **To What Type of Conduct Does the Policy Apply?**

This Policy applies to the following types of conduct:

i. **Harassment**

Harassment is defined as engaging in a course of vexatious comment or conduct that is known, or ought reasonably to be known, to be unwelcome. It can take the form of thoughtless remarks, inconsiderate communication and/or bullying. It can include, but is not limited to, the following:

- name-calling;
- obscene or offensive jokes;
- racial or ethnic slurs;
- rude behaviour or gestures;
- obscene or offensive graffiti;
- avoidance or exclusion (when this avoidance is contrary to job requirements);
- threats;
- unwanted physical contact or physical violence.

Harassment can occur under this Policy whether or not it is based on a prohibited ground under the Ontario *Human Rights Code* (the “Code”).

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not harassment.

ii. **Sexual Harassment**

Sexual harassment is defined as follows:

- Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome; and/or
- Making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

iii. Discrimination

Discrimination includes, but is not limited to, any distinction, exclusion or preference based upon prohibited grounds (as detailed below), which nullifies or impairs equal treatment or opportunity in employment or tenancy or equality of terms and conditions of employment or tenancy.

This Policy recognizes three kinds of discrimination:

- direct: granting or denying rights to certain individuals or groups.
- adverse impact: the policies or practices appear neutral and apply equally to all community Members but have a discriminatory impact on persons protected by a prohibited ground.
- systemic: the policies and practices entrenched in established institutions that result in the exclusion or promotion of particular groups.

iv. Prohibited Grounds

Every Member of FNC has the right to work, learn and worship in an environment free from harassment and discrimination based on the following grounds listed in the *Code*:

- gender;
- sexual orientation;
- race;
- ancestry;
- place of origin;
- ethnic origin;
- citizenship;
- colour;
- creed (religion/beliefs);
- age (of 18 years or more);
- marital status;
- record of offences (if a pardon for a criminal offence has been granted);
- family status;
- handicap;
- same-sex partnership status; and

- disability.

Note that a right to non-discrimination is not infringed where a requirement, qualification or factor results in exclusion or preference based on a prohibited ground but the requirement, qualification or factor is reasonable and *bona fide* in the circumstances.¹

v. **Bullying**

Bullying is defined as acts or verbal comments that could hurt or disconnect a person 'mentally' in the workplace. It can involve negative physical contact as well. Bullying normally involves a pattern of behaviour that is deliberate and intimidates, offends, degrades or humiliates a particular person or group of people.

Bullying can be obvious or subtle and can involve, but is not limited to, one or more of the following types of conduct:

- creating a feeling of uselessness;
- intimidating a person;
- excluding or isolating someone socially;
- spreading malicious rumours and gossip;
- expecting your colleagues to do unreasonable favours (i.e. covering for continuous tardiness and/or early departure from work);
- undermining or deliberately impeding a person's work;
- physically abusing or threatening abuse;
- withholding necessary information or purposefully giving the wrong information;
- making jokes that should be known to be offensive, whether by spoken word or in writing;
- intruding on a person's privacy by pestering, spying or stalking;

¹ Note that section 18 of the *Human Rights Code* provides that: "The rights under Part I to equal treatment with respect to services and facilities, with or without accommodation, are not infringed where membership or participation in a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by a prohibited ground of discrimination is restricted to persons who are similarly identified".

Also note that section 24(1) (a) of the *Human Rights Code* provides that:
"The right under section 5 to equal treatment with respect to employment is not infringed where,
(a) a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by their race, ancestry, place of origin, colour, ethnic origin, creed, sex, age, marital status or disability employs only, or gives preference in employment to, persons similarly identified if the qualification is a reasonable and *bona fide* qualification because of the nature of the employment."

- yelling or using profanity;
- criticizing a person persistently or constantly;
- belittling a person's opinions; and
- tampering with a person's personal belongings or work equipment.

This Policy applies whether or not the offender is conscious of the fact that his/her behaviour is offensive and prohibited under this Policy.

A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace bullying.

(c) **Where/When Does This Policy Apply**

Locations and situations where behaviour will be subject to this Policy include, but are not limited to:

- FNC premises;
- FNC-related functions, including social functions and celebrations, workshops, conventions, meetings whether on or off-site;
- in the course of work-related assignments outside of FNC facilities;
- during work-related travel;
- at work-related conferences or training sessions; and
- in shul-related communications between Members or communications that arise out of the workplace or involve the use of FNC equipment. Such communications may be by telephone or other means of electronic written communication including, but not limited to, e-mail, voicemail, internet, fax and/or text messaging.

SPECIAL PROGRAM EXCEPTION

The *Code* allows for special programs designed to assist disadvantaged persons or groups in achieving equal opportunity in employment and accommodation. FNC may, from time-to-time, introduce special programs in accordance with the *Code*. These special programs do not constitute unlawful harassment or discrimination under this Policy.

COMPLAINT PROCESS

A person who believes that he or she has been subject to unlawful harassment, sexual harassment, discrimination, or bullying (“the complainant”) is encouraged to bring the matter to the attention of the person responsible for the conduct (“the respondent”).

Where the complainant does not wish to bring the matter directly to the attention of the respondent, or where such an approach has been attempted and does not produce a satisfactory result, the complainant may follow one or more of the following avenues:

- a. Informal Complaint; and/or
- b. Formal Complaint.

These options are described in greater detail in the following paragraphs.

(a) **Informal Complaint Process**

The goal of this Policy is to stop unlawful discriminatory, harassing, or bullying behaviour as soon as it occurs. Wherever possible, FNC will seek ways to resolve any complaints before they escalate to the level of a formal complaint.

Anyone may seek an informal resolution to a complaint. However, all Members of FNC are required to act to prevent and stop harassment, sexual harassment, discrimination, or bullying if there is an indication that harassment, sexual harassment, discrimination, or bullying has occurred. As a result, supervisors/managers must bring criminal behaviour and/or harassment, sexual harassment, discrimination, or bullying contrary to the *Code*, the *Occupational Health and Safety Act* (the “*OHSA*”), or this Policy to the attention of the President (or where that person is the subject matter of the complaint, the Treasurer), who must in turn notify police and/or investigate the complaint as appropriate in the circumstances. In addition, information may also have to be disclosed where required by law, for example, in grievance proceedings, proceedings before the Human Rights Tribunal of Ontario or in criminal proceedings.

In situations of violence or threats of violence, Members should refer to the Workplace Violence Policy.

i) **Informal Counselling or Advice**

The complainant should approach the President (or where that person is the subject matter of the complaint, the Treasurer) and advise of the complaint.

On being made aware of harassment, sexual harassment, discrimination, or bullying, President or Treasurer may have to take action, even if the complainant does not wish to pursue the matter.

Once a complainant has sought the advice of a President or Treasurer, the President or Treasurer will provide the complainant with a copy of this Policy and advise the complainant of:

- a. the fact that the President or Treasurer will keep confidential the discussion with the complainant, subject to the exceptions discussed in the confidentiality section of this Policy, unless the President or Treasurer is of the opinion that he or she must take action based on the information provided by the complainant;
- b. the fact that the President or Treasurer will keep a written record of the discussion with the complainant and that this record will be kept confidential unless the President or Treasurer is of the opinion that he or she must take action based on the information provided by the complainant;

- c. the need for the complainant to avoid discussing his or her complaint with co-workers because the complaint is confidential;
- d. the right to make a formal complaint under the Policy; and
- e. the right to withdraw from any further action in connection with the complaint at any stage (however, even if the complaint is withdrawn, FNC may nevertheless continue to investigate the complaint if it believes it is necessary to do so in order to meet FNC's obligations under legislation of this or any other Policy).

Additionally, the President or Treasurer may need to address the issue under the Workplace Violence Policy, if applicable.

ii) Outcome of Meeting with President or Treasurer

No Further Action

Where, after discussing the matter, the complainant and/or the President or Treasurer determine that the conduct in question does not constitute harassment, discrimination, or bullying as defined in the Policy, the complainant and/or the President or Treasurer will not proceed further under the Policy. The President or Treasurer shall keep a written record of the discussion without disclosing the content of the complaint to anyone.

Meeting with Witnesses

Where the complainant brings facts to the attention of the President or Treasurer which could constitute unlawful harassment, discrimination, or bullying, the President or Treasurer may meet with any witnesses identified by the complainant. The President or Treasurer shall keep a confidential written record of any discussions with witnesses.

Discussion with Respondent

Where the complainant brings to the attention of the President or Treasurer facts which could constitute unlawful harassment, discrimination, or bullying, the President or Treasurer may, with or without the complainant present and with or without the complainant's consent, speak to the respondent, and the President or Treasurer will keep a confidential written record of that discussion and the outcome of the meeting.

Where the complainant and the respondent are satisfied that they have achieved an appropriate resolution, the President or Treasurer will make a confidential written record of the resolution. The President or Treasurer will follow up to make sure that the resolution is working. The President or Treasurer's confidential written record will be maintained as set out in the Records and Documentation section, below.

If the President or Treasurer believes that, notwithstanding the satisfactory resolution between the parties, the resolution has not addressed FNC's obligations under this Policy, he or she will consider whether the complaint should be referred to the Board. Similarly, if the President or Treasurer is of the opinion that the situation warrants immediate referral of the complaint to the Board, he or she may do so at the outset, with or without the complainant's consent and without first attempting a resolution between the parties.

iii) Where Informal Resolution is not Appropriate

In some situations, informal conflict resolution techniques may not be appropriate. Examples include incidents of repeat offences and situations where the alleged conduct is particularly offensive, and there is clear intent and knowledge of the nature and impact of the behaviour. In situations of violence or threats of violence, the Workplace Violence Policy applies.

In all cases, it is recommended that the complainant keep a record of the incident(s). The complainant should write down the full details of the incident(s), including dates, times, nature of the offensive behaviour, and witnesses if any. The complainant should include a record of any meetings (formal or informal) where he or she tried to discuss the behaviour.

(b) Formal Complaint Process

If informal attempts at resolving the problem are not appropriate or prove ineffective, a formal complaint and investigation may be required.

All Members have the right to complain about situations they believe to be unlawful harassment or discrimination under this Policy.

All Members having knowledge of an offence under this Policy have a right to file a formal complaint.

i) Reporting a Complaint

A formal complaint by a Member under this Policy must be submitted to the President (or where that person is the subject matter of the complaint, the Treasurer). A complaint may first be made verbally. However, a written letter of complaint will also be required. A letter of complaint should contain a brief account of the offensive incident(s), when it occurred, the person(s) involved and the names of witnesses, if any.

Everyone filing a complaint may be accompanied by an advocate of their choice throughout the complaint process.

ii) Timing

Complaints should normally be reported within six months of the incident. Promptness in reporting a complaint protects the rights of both the person making the complaint and the person complained against.

(c) Investigating Formal Complaints

i) Timing

The President or Treasurer or his/her designate(s) will investigate a complaint. It is the expectation that in the normal course, the investigation will be completed within twenty-five working days of receiving the complaint. At the end of that period, a clear written indication of any additional time needed to resolve the complaint will be forwarded to the complainant, the respondent and the responsible manager, if any. The President or Treasurer's aim is to resolve the issue no later than forty-five days after receiving the complaint. However, this period can be extended by the President or Treasurer where circumstances warrant.

Where appropriate, FNC may retain the services of an outside investigator.

ii) **Investigative Procedure**

Upon receipt of a complaint, the President or Treasurer will:

- a. provide the person against who the complaint is made (the “respondent”) with an overview of the complaint; and
- b. provide a copy of this Policy to the person making the complaint (the “complainant”) and to the respondent.

The President or Treasurer will take any interim action necessary to ensure the safety of all parties pending investigation of the complaint.

The President or Treasurer will designate either an internal or an external investigator(s) to conduct the formal investigation.

(a) **The Investigation Process**

The investigator(s) will interview the complainant to document the details of the complaint and the remedy the complainant is seeking. The investigator(s) will also interview any witnesses identified by the complainant.

The investigator(s) will interview the respondent to document his or her perspective of the events in question. If any additional witnesses are identified by the respondent, the investigator(s) will interview those witnesses as well.

Each party may appoint an advocate and/or supporter to be present at any interviews dealing with the complaint. Each party may request cultural, language or other interpreters throughout the process.

The investigation will be conducted in confidence, subject to the exceptions identified below. The investigator will ask those who were interviewed to sign written statements summarizing their evidence.

(b) **The Investigation Report**

The investigator will prepare an investigation report which will include:

- a. the allegations of workplace harassment, sexual harassment, discrimination, or bullying;
- b. summaries of the interviews of the complainant, the respondent and each witness;
- c. the findings of fact; and
- d. if requested by the President or Treasurer, recommendations on appropriate resolutions.

The investigator will provide the final investigation report to the President or Treasurer.

(c) **Outcome of the Investigation**

Based on the findings of the investigator and in consultation with the Board as appropriate, the President or Treasurer will make a final decision as to whether the Policy has been violated and what action will be taken as a result of the findings, if any.

The parties and the appropriate managers, if any, will be informed in writing of the outcome of the investigation, the decision made by the President or Treasurer as to whether the Policy has been violated and what actions, including corrective actions, will be taken, if any. The parties and managers are to keep this information confidential. The managers may disclose information only to the extent necessary to implement the action directed by the President or Treasurer, or as required by law.

If there is sufficient evidence to conclude that harassment, discrimination, sexual harassment, or bullying in breach of this Policy has occurred, FNC will take appropriate remedial action against the individual(s) responsible as outlined below.

iii) **Dealing with Non-Cooperation**

Employees refusing to cooperate will be subject to discipline up to and including termination of employment.

REMEDIAL AND DISCIPLINARY ACTION

Members, regardless of status, seniority, influence or position, who are found to have engaged in conduct constituting harassment, sexual harassment, discrimination, or bullying contrary to this Policy may be severely disciplined (or restricted from access to services provided by FNC). In certain cases the individual may be subject to criminal charges.

The following are specific measures based on the type of association with FNC:

Persons working for FNC – severe discipline up to and including dismissal from employment.

Board Members – serious remedial action including recommendations under Article IV clause A subclause 2 of the First Narayever's Constitution for removal from their Board position and/or termination of membership in accordance with Article V clause C of the First Narayever's Constitution.

Others (congregants, visitors, volunteers, permit-holders, contractors, etc.) – access to FNC premises may be limited or completely barred; a permit may be revoked or not renewed, or a contract may be terminated or not renewed, and a congregant may have his or her membership terminated by the Board in accordance with Article V clause C of the First Narayever's Constitution.

FREEDOM FROM REPRISAL

For the purposes of this Policy, “reprisal” means a negative action or omission against a member carried out in relation to the member having:

1. invoked this Policy in good faith (whether on behalf of oneself or another individual);
2. participated or co-operated in any investigation under this Policy; or
3. associated with a person who has invoked this Policy or participated in its procedures.

Any form of reprisal against a Member who avails himself or herself of this Policy is not acceptable. Any complaint of reprisal will be investigated and addressed in accordance with the provisions of this Policy and, where appropriate the specific measures set out above with respect to violations of the Policy will apply.

CONFIDENTIALITY

Information obtained by FNC about an incident or complaint of harassment, sexual harassment, discrimination, or bullying, including identifying information about any individuals involved, will not be disclosed unless the disclosure is necessary for the purposes of investigating or taking corrective action with respect to the incident or complaint, or if it is otherwise required by law.

Parties to a complaint should not discuss complaints with co-workers or other Members as complaints are confidential. All other individuals involved in the investigation must hold all information and documentation in strict confidence, both during and after the investigation. They may not discuss or release information in any form to anyone who is not party to the complaint, subject to the following exceptions.

- a. anyone with a formal role under the Policy must bring criminal behaviour and/or harassment or discrimination that may be contrary to the *Code* to the attention of the President, who must in turn notify police or investigate the complaint, if appropriate;
- b. information may also have to be disclosed where required by law, for example, in grievance proceedings, proceedings before the Human Rights Tribunal of Ontario or criminal proceedings;
- c. where a complaint proceeds past the informal complaint stage, each party must be given enough information about the position of the other parties and witnesses to be able to respond; and
- d. in cases of workplace harassment allegations arising under the *Occupational Health and Safety Act*, the investigation findings and a copy of the investigation report may be provided to the health and safety representative, if any, and may also be provided to other workers.
- e. Where a person working for the First Narayever Congregation is dismissed from employment as a consequence of a finding that he or she acted in violation of this Policy or the Workplace Violence Policy, nothing in this Part shall prevent or prohibit the First Narayever Congregation from advising a prospective employer that is seeking a reference or making inquiries that a violation of this Policy or the Workplace Violence Policy was the reason for that employee's dismissal, subject to any legal prohibitions on such disclosure including, but not limited to, any agreed upon confidentiality clauses in a settlement agreement.

Confidentiality is not the same as anonymity. The names of people involved in a complaint may have to be divulged in order for the complaint process to proceed fairly.

Breaches of confidentiality on the part of staff members, witnesses, advocates and board members are subject to disciplinary action, up to and including:

- a written warning or reprimand;
- suspension; and
- termination of employment or services.

RECORDS AND DOCUMENTATION

All records of the investigation will be kept strictly confidential and separate from existing files. They will be kept exclusively by the President in a secure location identified by the President.

The President will keep detailed records of all communications that involve or are brought to his or her attention during the investigation of a complaint. This includes informal and formal, and written and verbal communication. Clear documentation will also be maintained on agreements and follow-up.

REVIEWING AND EVALUATING THIS POLICY

This policy will be reviewed and updated as necessary. All staff will be provided with a copy of this Policy annually. Each new employee is to be provided with a copy of this Policy and the Workplace Violence Policy upon the commencement of employment.

OTHER/ALTERNATIVE COMPLAINT PROCESS

Although Members of FNC are encouraged to use the complaint process under this Policy, nothing in this Policy should be interpreted as denying or limiting access to other complaint avenues such as those listed and described below:

- Human Rights Tribunal of Ontario: If the discrimination, harassment, sexual harassment, or bullying is based on a prohibited ground under the *Code*, all persons also have the right to file a human rights complaint directly with the Tribunal. The Tribunal usually requires that a complaint be filed within one (1) year of the alleged discrimination.
- Ontario Labour Relations Board: under certain circumstances, Members have the right to file a complaint under the *OHSA* directly with the Ontario Labour Relations Board.
- Police Complaint: All persons may pursue criminal charges if, for example, a complaint involves personal property damage, assault or sexual assault.

Date of Policy: March 12, 2018

HUMAN RIGHTS ORGANIZATIONS

The following organizations can offer additional information and support about discrimination and harassment issues. Some of these organizations will also investigate and act on complaints.

- Human Rights Tribunal of Ontario
655 Bay Street, 14th floor
Toronto, ON M7A 2A3
Phone: (416) 326-1312

- Centre for Equality Rights in Accommodation (CERA)
517 College Street, Suite 408
Toronto, Ontario M6G 4A2
Phone: (416) 944-0087

- Access Action Council
509 College Street, Suite 1001
Toronto, Ontario M5B 1J3
Phone: (416) 351-0095

- Ontario Women's Directorate
2 Carlton Street, 12th floor
Toronto, Ontario M5B 2M9
Phone: (416) 314-0300

- Workers Information and Action Centre (City of Toronto)
277 Victoria Street, Suite 102
Toronto, Ontario M5B 1W2
Phone: (416) 392-1203