

## **Rochester Zen Center Sexual Harassment Policy**

The Rochester Zen Center is committed to maintaining a place to practice and work that is free from sexual harassment. Sexual harassment is a form of discrimination. The Center has a zero-tolerance policy for any form of sexual harassment, and all employees are required to work in a manner that prevents sexual harassment in the workplace. This policy is one component of the Center's commitment to a discrimination-free work environment.

Sexual harassment is against the law. All Rochester Zen Center employees, members, trainees, volunteers, interns (whether paid or unpaid), applicants for employment or membership, contractors, and persons conducting business with the Center have a legal right to work and practice in an environment free from sexual harassment, and may enforce this right by filing a complaint internally with the Zen Center, or with a government agency, or in court under federal, state, or local anti-discrimination laws.

### **Policy:**

1. The Rochester Zen Center's policy applies to all employees, members, trainees, volunteers, interns (whether paid or unpaid), applicants for employment or membership, contractors, and persons conducting business with the Center.
2. Sexual harassment will not be tolerated. Any employee or other individual covered by this policy, as noted above, who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action up to and including termination from employment and/or membership.
3. Retaliation Prohibition: No person covered by this policy shall be subject to adverse employment or membership action, including being discharged, disciplined, discriminated against, or otherwise subject to adverse employment or membership action because they report an incident of sexual harassment, provide information, or otherwise assist in any investigation of a sexual harassment complaint. The Rochester Zen Center has a zero-tolerance policy for such retaliation against anyone who in good faith complains or provides information about suspected sexual harassment. Any employee or member of the Rochester Zen Center who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action up to and including termination. Any employee, member, trainee, volunteer, intern (whether paid or unpaid), applicant for employment or membership, contractor, and person conducting business with the Center who believes they have been subject to such retaliation should inform a teacher, supervisor, manager, trustee, Ethics and Advisory Committee member, or one of the following individuals: Ven. Trueman Taylor (Head of Zendo at Arnold Park), Donna Kowal (Head of Zendo at Chapin Mill and Sangha Programs Manager), or Kathy Collina (a Rochester-based longtime member and former trustee, and a licensed mental health counselor). Any such person who believes they have been a victim of retaliation may also

seek compensation in other available forums, as explained below in the section on Legal Protections.

4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and subjects the Rochester Zen Center to liability for harm to victims of sexual harassment. Harassers may also be individually subject to liability. Employees, members, trainees, volunteers, interns (whether paid or unpaid), applicants for employment or membership, workshop or program attendees, contractors, and persons conducting business with the Center of every level who engage in sexual harassment, including teachers, managers, and supervisors who engage in sexual harassment or who knowingly allow such behavior to continue, will be penalized for such misconduct.
5. The Rochester Zen Center will conduct a prompt, thorough, and confidential investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, members, trainees, volunteers, interns (whether paid or unpaid), applicants for employment or membership, workshop or program attendees, contractors, and persons conducting business with the Center, including teachers, managers, supervisors, trustees, and Ethics and Advisory Committee members, are required to cooperate with any internal investigation of sexual harassment.
6. All employees, members, trainees, volunteers, interns (whether paid or unpaid), applicants for employment or membership, workshop or program attendees, contractors, and persons conducting business with the Center are encouraged to report any harassment or behaviors that violate this policy using the following complaint form: <https://www.rzc.org/about/governance/policies-and-bylaws/sexual-harassment-policy/>. A print version is also available at the Zen Center.
7. Teachers, managers, and supervisors are required to report any complaint that they receive, or any harassment that they observe to one of the following individuals, as noted above: Ven. Trueman Taylor, Donna Kowal, a trustee, a member of the Ethics and Advisory Committee, or Kathy Collina.
8. This policy applies to all employees, members, trainees, volunteers, interns (whether paid or unpaid), applicants for employment or membership, contractors, and persons conducting business with the Center. This policy must be posted prominently at Arnold Park and Chapin Mill and be provided to employees upon hiring or acceptance into the training program.

### **What Is “Sexual Harassment”?**

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, gender identity, and the status of being transgender.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually-harassing hostile work environment consists of words, signs, jokes, pranks, intimidation, or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient's job performance.

Adoption of this policy does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.

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

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

### **Examples of sexual harassment**

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical assaults of a sexual nature, such as uninvited touching, pinching, patting, grabbing, poking, or brushing against another person's body.
- Rape, sexual battery, molestation, or attempts to commit these assaults.
- Unwanted sexual advances or propositions, including requests for sexual favors accompanied by implied or overt threats concerning the victim's spiritual practice, job performance, or a promotion, or other benefits or detriments.
- Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes, or comments about a person's sexuality or sexual experience, which create a hostile environment for work and spiritual practice.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials, or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity, or the status of being transgender, such as interfering with, destroying, or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job; sabotaging an individual's work; or bullying, yelling, or name-calling.

### **Who can be a target or perpetrator of sexual harassment?**

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. A perpetrator of sexual harassment can be a superior, a subordinate, a coworker or anyone in the workplace or temple, including a fellow member, a volunteer, an independent contractor, or a visitor.

### **Where can sexual harassment occur?**

Unlawful sexual harassment is not limited to the physical workplace or temple. It can occur while employees or members are traveling for Center business or at Center-sponsored events or social gatherings. Calls, texts, emails, and social media usage by employees can constitute

unlawful workplace harassment, even if they occur away from the Arnold Park and Chapin Mill premises or not during work hours.

### **What is “retaliation”?**

Unlawful retaliation can be any action that would keep a worker or member from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation.

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- filed a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- complained that another employee or member has been sexually harassed; or encouraged a fellow employee or member to report harassment.

### **Reporting sexual harassment**

Preventing sexual harassment is everyone’s responsibility. The Rochester Zen Center cannot prevent or remedy sexual harassment unless it knows about it. Any employee, non-employee, or paid or unpaid intern or volunteer who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, manager, trustee, member of the Ethics and Advisory Committee, or one of the following individuals: Ven. Trueman Taylor, Donna Kowal, or Kathy Collina. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, manager, or one of the aforementioned individuals.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is included in this Policy, and all employees and members are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee’s behalf.

Employees, non-employees, and paid or unpaid interns or volunteers who believe they have been a victim of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

### **Supervisory responsibilities**

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior, or for any reason suspect that sexual harassment is occurring, are required to report such suspected sexual harassment to Ven. Trueman Taylor, Donna Kowal, or Kathy Collina.

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

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

### **Complaint and investigation of sexual harassment**

All complaints or information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, and should be completed within 30 days. The investigation will be confidential to the extent possible. All persons involved, including complainants, witnesses, and alleged perpetrators will be accorded due process to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. Employees who participate in any investigation will not be retaliated against.

Investigations will be done in accordance with the following steps:

- Upon receipt of complaint, Ven. Trueman Taylor, Donna Kowal, or Kathy Collina, in consultation with the others and with a trustee or member of the Ethics and Advisory Committee, will conduct an immediate review of the allegations, and take any interim actions, as appropriate. If the complaint is oral, encourage the individual to complete the Complaint Form in writing. If they refuse, prepare a Complaint Form based on the individual's oral reporting.

- If documents, emails, or phone records are relevant to the allegations, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo, or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - The final resolution of the complaint, together with any corrective actions action(s).
- Take appropriate steps to ensure that the written documentation and associated documents are maintained in the employer's records.
- Promptly notify the individual who complained and the individual(s) who responded of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who complained of their right to file a complaint or charge externally as outlined below.

### **Legal protections and external remedies**

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

Aside from the internal process at the Rochester Zen Center, employees and members may also choose to pursue legal remedies with the following governmental entities at any time through the New York State Division of Human Rights (DHR).

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects

employees, paid or unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with DHR or in New York State Supreme Court.

Complaints with DHR may be filed any time within one year of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, within three years of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to the Rochester Zen Center does not extend an individual's time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

An individual does not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate the complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring an individual's employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees, and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400, [www.dhr.ny.gov](http://www.dhr.ny.gov)

An individual can contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### **United States Equal Employment Opportunity Commission (EEOC)**

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that they have been discriminated against at work, they can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY), visiting its website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **Local protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city, or town in which they live to find out if such a law exists.

### **Contact the local police department**

If the harassment involves physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

### **Minimum standards for sexual harassment prevention training**

Every employer in the State of New York is required to provide employees with sexual harassment prevention training pursuant to Section 201-g of the Labor Law. An employer that does not use the model training developed by the State Department of Labor and Division of Human Rights must ensure that the training that they use meets or exceeds the following minimum standards. The training must:

- (i) be interactive;
- (ii) Include an explanation of sexual harassment consistent with guidance issued by the Department of Labor in consultation with the Division of Human Rights;
- (iii) include examples of conduct that would constitute unlawful sexual harassment;
- (iv) include information concerning the federal and state statutory provisions concerning sexual harassment and remedies available to victims of harassment;
- (v) include information concerning employees’ rights of redress and all available forums for adjudicating complaints; and
- (vi) include information addressing conduct by supervisors and any additional responsibilities for such supervisors.

Each employee must receive training on an annual basis. Employers should provide employees with training in the language that is spoken by their employees.

Providing employees with training does not constitute a conclusive defense to charges of unlawful sexual harassment. Each claim of sexual harassment will be determined in accordance with existing legal standards, with due consideration of the particular facts and circumstances of the claim, including but not limited to the existence of an effective anti-harassment policy and procedure.