

# Ethical Responsibilities in Employee Relations

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1

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2

“The worried, angry and exhausted workers who remained had asked Starbucks for KN95 masks, better protocols to inform them when co-workers tested positive for the coronavirus and the right to deny service to customers who refused to comply with their county’s mask mandate.”

Buffalo area Starbucks Employees on why they voted to form union

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3

## What are Ethical Responsibilities?

- Set of values, moral principles and standards to be followed
- Operating our organization in a fair and ethical manner
  - Obeying our organization’s rules and regulations
    - Denominational rules and regulations
  - Mutual respect for colleagues
  - Effective Communication
  - Taking responsibility for decisions
  - Being accountable to stakeholders

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4

## Hosanna Tabor

- January 2012 Supreme Court Unanimous Decision
- First time that the Court formally recognized a "Ministerial Exception" to claims brought under the Americans with Disabilities Act
- Two Findings
  - (1) firing decisions made by religious entities need not be made for "religious reasons" in order for the Ministerial Exception to apply; and
  - (2) the exception constitutes an affirmative defense that must be raised by a defendant in an employment discrimination complaint.
- The boundary question was - When is an employee actually engaging in ministry?
- Very broad view of the Ministerial Exception
- To succeed, Organization had to show that it was a religious organization and the plaintiff fit into category.
- Thomas- Courts must defer to Organization as to who is a Minister as the selection is a religious decision and courts should not even enter into the discussion.

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5

## Our Lady of Guadalupe

- July 2020 Supreme Court Decision (7-2)
- Claim of employment discrimination overruled by ministerial exception.
- 9<sup>th</sup> Circuit found that employees did not fall within the Ministerial Exception because the employees did not have formal title of "Minister", had limited religious training and did not hold themselves out as religious leaders.
- Supreme Court Reversed, and confirmed First Amendment protection for the rights of religious institutions "to decide for themselves matters of church government as well as those of faith and doctrine".
- Court Stated that the First Amendment's Religion Clause foreclosed the adjudication of employment discrimination claims.
- What did they do, what was role in conveying the Church's message and carrying out its mission. Educating young people in their faith, inculcating its teaching and training them to live their faith are at the very core of school's mission.

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6

## Meaning for Religious Employers

- Broad interpretation of “Minister”,
- “Courts should defer to a religious organization’s good faith understanding of who qualifies as its minister”
- Recent cases include,
  - Teacher (even of liberal arts subjects)
  - Music Director and Organist at a church
  - Elementary school music teacher
  - Principal of parochial school
- Title given does not automatically exclude from qualification

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7

KNOWING YOU CAN  
DOESN'T MEAN  
YOU SHOULD

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8

# Case Study

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9



**NORTH AMERICAN DIVISION OF THE GENERAL  
CONFERENCE OF SEVENTH-DAY ADVENTISTS  
STATEMENT OF ACCEPTANCE - CONFLICT OF INTEREST  
2022**

THIS DECLARATION applies, to the best of my knowledge, to all members of my immediate family (spouse, children, and parents) and its provisions shall protect any organization affiliated with or subsidiary to the **North American Division**. In the event facts change in the future that may create a potential conflict of interest, I agree to notify the **North American Division**.

1. I have read the Statement of Ethical Foundations and the policy on Conflict of Interest and/or Commitment.
2. I am in compliance with **North American Division** policy on Conflict of Interest and/or Commitment as printed above.
3. Except as disclosed:
  - a. Neither I nor my family has a financial interest or business relationship which competes with or conflicts with the interests of the **North American Division**.
  - b. Neither I nor my family have a financial interest in, nor am or have been, an employee, officer, director, or trustee of, nor receive/have received financial benefits either directly or indirectly from any enterprise (excluding less than five percent (5%) ownership in any entity with publicly traded securities) which is or has been doing business with or is a competitor of the **North American Division**.
  - c. Neither I nor my family receive/received any payments or gifts, monetary or non-monetary (other than of nominal value) from other denominational entities, suppliers, or agencies doing business with the **North American Division**.
  - d. Neither I nor my family serve/have served as an officer, director, trustee, or agent of any organization affiliated with or subsidiary to the **North American Division** in any decision-making process involving financial or legal interests adverse to the **North American Division**.

Disclosures:

- 1.
- 2.
- 3.

\_\_\_\_\_(Type/Print Name)  
..... (Signature) \_\_\_\_\_ (Date)

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10

## Conflict of Interest-Definition

### *North American Division Working Policy*

E 85 05--Conflict of Interest and/or Commitment Defined—  
Conflict of interest shall mean any circumstance under which an employee or volunteer by virtue of financial or other personal interest, present or potential, directly or indirectly, may be influenced or appear to be influenced by any motive or desire for personal advantage, tangible or intangible, other than the success and well being of the denomination.

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11

## Definition Continued

A conflict of commitment shall mean any situation which interferes with an employee's ability to carry out his/her duties effectively. Elected, appointed, or salaried employees on full time assignment are compensated for full time employment; therefore, outside or dual employment or other activity, whether compensated or not, that in any way interferes with the performance of an employee's duties and responsibilities is a conflict of commitment.

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12

## Definition Continued

A conflict of commitment also exists in situations where an employee functions contrary to the values and ethical conduct outlined in the organization's statement of ethical foundations and conduct (see model **Statement of Ethical Foundations** recommended by the 1999 Annual Council as guidelines for divisions) or when an employee functions contrary to established codes of ethical conduct for employees in particular professions (e.g. legal, investments).

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13

# STATEMENT OF ETHICAL FOUNDATIONS

Voted by the North American Division Committee October 1999

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14

## Our Responsibilities

- We accept accountability for sound leadership decisions and appropriate stewardship
- We are responsible to each other within the office complex. Every individual deserves to be treated with dignity and respect; to have his or her role and contribution valued and affirmed; to function in a safe working environment; to experience an atmosphere of challenge, open communication and contentment.

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15

## Our Values

- We value the **Bible** as the primary reference for life's direction and qualities.
- We value **excellence** in all that we do.
- We value **ethical and moral conduct** at all times and in all relationships.
- We value **creativity and innovation** in the completion of our mission.
- We value **honesty, integrity, and courage** as the foundation of all our actions
- We value the **trust** placed in us by colleagues and by the world Church membership.
- We value **people** as children of God and therefore brothers and sisters of one family.

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16



## *Ethical Responsibilities as Employer and Corporate Citizen*

- In pursuit of its mission, and while maintaining its responsibilities and adhering to its values, the North American Division operates under the following ethical guidelines:
- **Equal opportunity employment.** Within the purview of laws permitting church membership as a condition of employment, and subject to denominational policies on positions requiring ministerial ordination, the North American Division will follow procedures to ensure equal opportunity of employment, remuneration, and advancement on the basis of job qualifications and performance.
- **Equity, fairness and non-discrimination.** The North American Division will treat all individuals and groups with loving justice. It will not practice or condone discrimination with regard to race, national origin, gender, age, marital status, veteran status, or disability that does not prohibit performance of essential job functions.
- **Compliance with laws of the land.** The North American Division will carry on its activities in compliance with the laws of the land provided these are not in contradiction to God's expressed will.

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17

- **Loyalty and fulfillment of contractual obligations.** The North American Division will fulfill the commitments it has entered into through authorized channels. Where misunderstandings arise regarding such commitments, the North American Division shall participate, with the parties concerned, in conflict resolution procedures within the organizations before seeking the help of the wider community.
- **Atmosphere of safety and happiness.** The North American Division is committed to providing a work environment that offers physical safety and security. It also strives to encourage and promote genuine happiness through the realization that every employee is valuable and every task, no matter how routine or unnoticed, is a service to God. The North American Division will continue to integrate worship, work, and celebration in a manner that acknowledges wholeness in life and relationships.
- **Respect for human dignity and individuality.** The North American Division affirms and respects the uniqueness of every employee. It recognizes that a person's value surpasses the worth of his or her contribution to the organization. It believes that communal harmony and corporate objectives are enhanced rather than compromised by the broad mosaic of personalities, talents, skills, and viewpoints dedicated to the honor of Jesus Christ. The North American Division shall strive for communication that is timely, truthful, open, candid, and

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18

## Ethical Responsibilities as Employees

We recognize that employment in the Seventh-day Adventist Church implies commitment to the organization's mission and concurrence with its responsibilities and values. We affirm that employer-employee relationship grows within a reciprocity of mutual regard. Our reasonable service as employees includes the following ethical responsibilities:

- ***Life consistent with church message and mission.*** While in the employ of the General Conference we will live in a manner consistent with the beliefs and values of the Church. We will uphold, in word and conduct, the teachings and principles held and advanced by the Seventh-day Adventist Church.
- ***Respect for Church-owned assets.*** We will respect the property of our organization, including any intellectual property that is developed in the course of our employment. We will use the property, facilities, and resources solely for the benefit of our organization, unless otherwise permitted or when financial compensation for such use has been arranged.

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19

- ***Respect for colleagues.*** We will respect and uplift our fellow employees. We will refrain from intentionally placing another in a position of embarrassment, disrespect, or harassment. We will avoid all behavior that may be construed as sexually inappropriate. We will honor the privacy and guard the safety of others.
- ***Efficiency and attention on the job.*** The hours of our employment shall be devoted to the work assignments entrusted to us. We will not use the employer's time for personal business or the advancement of personal interests unrelated to the work assigned by our supervisors. We will not deprive our employer by entering into other employment or activities which impair our performance for the General Conference while on the job. We will aspire to greater efficiency and the reduction of waste in time, effort and resources.
- ***Personal integrity in financial matters.*** We will not engage in theft or embezzlement of any kind including the misuse of expense accounts, falsification of time reports, or the misapplication of resources for which we are responsible.

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20

- ***Avoiding inappropriate influence.*** We acknowledge that the giving or receiving of business gifts can easily inject ulterior consideration in our work and employment relationships. Therefore the use of gifts, payments, or honoraria as incentives or rewards for a particular course of action is unacceptable. We will not offer gifts, favors, payments, or other forms of reward directly or indirectly in exchange for a specific gain or action.
- ***Maintaining an ethical environment in the workplace.*** We accept the obligation of maintaining ethical standards in our personal life and in the workplace. We believe it is our personal responsibility to report, through established confidential channels, any behavior that is inappropriate or which undermines the ethical environment in the office complex. We are prepared to be held accountable by our supervisors and peers for professional conduct representing the moral and ethical values of the Seventh-day Adventist Church.

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21


## E 85 20 Statement of Acceptance

- On an annual basis the employer shall provide all exempt employees, excluding seasonal workers, student employees, and student literature evangelists, with a copy of the Statement of Ethical Foundations, plus a copy of the Conflict of Interest and/or commitment policy, and shall inform employees regarding the duty to disclose potential conflicts of interest and/or commitment.

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22



## NAD Policy Acknowledgement Form

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**Statement of Ethical Foundations**

**Our Mission**

The Seventh-day Adventist Church's mission is to proclaim to all peoples the everlasting gospel, in the context of the three angels' messages of Revelation 14:6-12, leading them to accept Jesus as their personal Savior, and encouraging them to unite with His church and prepare for His soon return. Within the scope of this mission, the North American Division office exists to lead the Church in being a worldwide witness for God's kingdom and in making disciples of Jesus Christ.

**Our Responsibilities**

North American Division employees believe:

- We are responsible first go God, our Creator. Individual and collective action must reflect His character and exhibit His love.
- We are responsible to the communities in which we work and live and also to the world community. We accept the challenge to be exemplary individuals and corporate citizens. We support good works and charities. We encourage civic improvements, a better quality of life, security, health, and education for all.
- We are responsible to our fellow church members. We accept accountability for sound leadership decisions and appropriate stewardship.
- We are responsible to each other within the office complex. Every individual deserves to be treated with dignity and respect; to have his or her role and contribution valued and affirmed; to function in a safe working environment; to experience an atmosphere of challenge, open communication, and contentment.


**Our Values**


- We value the Bible as the primary reference for life's direction and qualities.
- We value excellence in all that we do.
- We value ethical and moral conduct at all times and in all relationships.
- We value creativity and innovation in the completion of our mission.
- We value honesty, integrity, and courage as the foundation of all our actions.
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1. I have read the Statement of Ethical Foundations and the policy on Conflict of Interest and/or Commitment.
2. I am in compliance with my employer's policy on Conflict of Interest and/or Commitment as printed in the 2020-2021 North American Division Working Policy E 85.
3. Except as disclosed below:
  - a. Neither I nor my family have a financial interest or business relationship which competes with or conflicts with the interests of the North American Division of the General Conference of Seventh-day Adventists.
  - b. Neither I nor my family have a financial interest in nor am or have been an employee, officer, director, or trustee of, nor receive/have received financial benefits either directly or indirectly from any enterprise (excluding less than five percent (5%) ownership in any entity with publicly traded securities) which is or has been doing business with or is a competitor of the North American Division of the General Conference of Seventh-day Adventists or the North American Division Corporation of Seventh-day Adventists.
  - c. Neither I nor my family receive/received any payments or gifts, monetary or non-monetary (other than of nominal value) from other denominational entities, suppliers, or agencies doing business with the North American Division of the General Conference of Seventh-day Adventists.
  - d. Neither I nor my family serve/have served as an officer, director, trustee, or agent of any organization affiliated with or subsidiary to the North American Division of the General Conference of Seventh-day Adventists in any decision making process involving financial or legal interests adverse to the North American Division of the General Conference of Seventh-day Adventists.
  - e. I am not serving as a Board Member or Trustee of any Organization that is not listed in the Seventh-day Adventist Yearbook.

Disclosures

[ADD DISCLOSURE\(S\)](#)

Full Name \*


Position Title \*

Organization \*

Date Date will be captured on form submission

Signature \*

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25

## Legitimate Business Reasons for Terminating or Removing Employees

- Work or Performance Problems
  - PIP's or opportunity to correct or improve?
- Misconduct in or outside of employment
  - DUI
  - Embezzlement
  - Criminal Acts
  - Sexual abuse
- Reorganization of territory/office
- Financial considerations
- Financial exigency

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26

## What about....

### • Employee who:

- Is getting old, can't do job
- Comes to work late and leaves early
- Constantly makes mistakes on work you give them
- Invested and lost money in Nigerian financial scheme
- Director forging documents
- Lied on their application about their education or work
- Takes vacations at employer expense
- Fabricates expenses on expense or monthly report

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27

## Where to Look for Guidance

- Employee Handbook
  - Procedures for discipline
  - Procedures for Appeal
- Corporate Governing Documents
  - Provisions for removal of Elected/Appointed staff for cause
- Division Working Policy
  - Discipline
  - Removal from position for elected individuals
  - Appeals-Dispute Resolution Procedures

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28

## Consistent application of Policies

- It is not sufficient to know and apply policies
- Must apply policies consistently
  - Regardless of friendships, relationships
  - Regardless of gender
  - Regardless of position

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29

## Before Deciding to Discipline or Terminate, Ask Yourself . . . .

- Have we followed our policies?
- Does the employee have a legitimate explanation for the poor performance?
- Can we give an opportunity to improve performance?
- Does the punishment “fit the crime?”
- Is the decision to discipline or terminate consistent with previous actions of the organization?
- Is the decision premature?
- Does the employee have any rights such as review or appeal?

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30

## When Progressive Discipline is not Enough

- Grounds for Immediate Termination
- Situations where actions are illegal or intolerable in workplace
- Send message to other employees
- Conduct not acceptable
- Egregious conduct

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31

## Egregious Conduct

- Violation of Employee Conduct-Work Rules
- Violence or threatened violence
- Threats or threatening conduct
- Sexual Harassment or Sexual Misconduct
- Stealing
- Lying
- Falsifying Records
- Gross Insubordination
- Drug or Alcohol use or banned substance consumption
- Conviction of a Crime
- Pornography

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32



## What Constitutes Basis For Termination- From NAD Working Policy

- Any cause for discipline which if not corrected may lead to termination.
- Failure to practice the fundamental teachings and standards of the Seventh-day Adventist Church.
- Divorce or Remarriage without Biblical grounds.
- Misappropriation or misuse of organizational funds or other assets
- Committing, aiding, advocating or being convicted of a crime
- Supporting or being involved with activities that are in conflict with the teachings and objectives of the Seventh-day Adventist Church
- Failure to follow Conditions of Employment

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33

## Conditions of Employment-Employer Set

- Continuation of your employment requires you be:
  - A baptized, tithe-paying member in regular standing of the Seventh-day Adventist Church
  - A strong commitment to Christian service
  - A minister who remains faithful to ordination vows
  - An adherent of Bible-based teachings and church standards exemplifying personal conduct that precludes: chemical and substance abuse by the use of alcoholic beverages, tobacco in any form; illegal possession/misuse of drugs, etc.; use of profanity; immoral conduct including but not limited to engaging in pornographic activities, child sexual abuse, incest, fornication, adultery and homosexual practices; remarriage without Biblical grounds, as defined in the Church Manual

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34

## Working Policy Y 36

- Y 36 05 Termination Settlements—In order to provide transition funds for an involuntarily terminated full-time regular status Employee ("Employee"), **a termination settlement may be provided under the terms of this policy**. The settlement is not an earned employee benefit automatically provided in every case of employment termination.
- Y 36 10 Eligibility—A termination settlement may be granted to an involuntarily terminated employee who has worked in denominational employment for at least two years, regardless of age. A resignation as a result of being counseled to resign by the employer is considered an involuntary termination for the purposes of this policy. Eligibility shall be determined according to the following criteria:

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35

## Criteria to Qualify for Termination Settlement

- Involuntary termination of employment
- Lack of Performance
- Medical Condition and not eligible for disability
- Not re-elected or reappointed
- Transfer from full-time to part-time employment

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36

## Ineligible for Termination Settlements

- Part-Time Employees
- Involuntary termination due to violation of organizational policies, misconduct or criminal behavior
- Voluntary Resignation
- Declining another full-time denominational position consistent with training, compensation or experience.

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37

## Doing it wrong

- Bitterness
- Anger
- Social Media exposure
- Risk of Decisions being overturned
  - BA 42 Conciliation and Dispute Resolution
  - Appeal to Executive Committee
- Filing of Court Case
  - Court review of decision, not following our own policies
  - Public Airing of our internal affairs

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38

## Reducing the Likelihood of a Challenge of Decision

- Ensure that termination procedures/policies are followed
- Be candid with the employee
- Respect the employee's feelings & privacy
- Obtain the necessary releases
- Avoid inconsistent statements
- Do not publicly comment about employment issues
- Keep relevant documents
- Seek competent local legal counsel

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39

## THE DIFFERENCE . . .

BETWEEN BEING RIGHT AND PROVING  
YOU ARE RIGHT IS A LOT OF TIME AND  
MONEY!

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40

