

Sexual Misconduct and Wrongful Termination:

Important Legal Issues for Church Administrators

BY RUTH PARISH

Sexual misconduct and wrongful termination are common terms in the workplace today. However, they are sometimes used in vague and misleading ways to cover a variety of loosely related concepts. In the next three issues of the JOURNAL, we will look more closely at the topics of (1) sexual harassment in the workplace, (2) sexual abuse of children under the supervision of church schools and day-care centers, and (3) approaches to employee termination that avoid conflict and potential legal action.

These areas are often considered to be related only to secular employment, but regrettably, those who work within the church, both as employees and volunteers, are not immune to situations that contribute to these problems.

Each teacher, administrator, and noninstructional employee must inform himself of the potential risks within these areas. Over the next several issues this column will offer some facts and suggestions that will help church employees avoid conflict and legal difficulties.

Risk Management Services of the General Conference (RMS), acting in the role of risk and loss control specialist for the church, recognized the need for informational materials relating to these areas and has prepared guidelines covering sexual harassment, sexual abuse of children, and wrongful termination. Copies of these documents have been supplied to denominational institutions. The following material is excerpted from the guidelines.

Sexual Harassment

In 1986 the U.S. Supreme Court handed down a landmark decision in the area of sexual harassment—*Meritor Savings v. Vinson*—establishing critical mechanisms that organizations need to have in place before allegations of sexual harassment occur. Briefly, these mechanisms include:

1. The employer must communicate to employees an established policy relating specifically to sexual harassment.
2. The policy must include a grievance procedure that enables employees to report alleged harassment, even if their immediate supervisor is involved. (More than 50 percent of all sexual harassment complaints involve accusations against the employee's immediate supervisor.)
3. The organization must investigate all complaints promptly, keeping all information confidential.
4. Disciplinary action must be swift and appropriate to the misconduct.

The General Conference has adopted the following sexual harassment policy, derived from a model prepared by RMS. A similar policy should be developed and communicated to employees within each denominational organization.

1. *Personal Conduct*—Employees of the General Conference are to exemplify the Christ-like life and should avoid all appearances of wrong doing. They should not for one moment indulge in sexual

behavior that is harmful to themselves and others and that casts a shadow on their dedication to the Christian way of life.

2. *Mutual Respect*—Employees should respect and uplift one another. They must never place another worker in a position of embarrassment or disrespect due to sexual overtones. To do so would be a violation of God's law and the law of the land which protects human rights in the workplace.
3. *Definition*—Title VII of the Civil Rights Act (1964), administered by the U.S. Equal Opportunity Commission (EEOC), has issued guidelines defining sexual harassment as follows:
 - a. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical contact of a sexual nature constitute sexual harassment when
 - 1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
 - 2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
 - 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
 - b. Specific examples of the above

Continued on page 39

cipline are all part of a balanced curriculum. Integrating them in creative ways into the school program will help each teacher make education the best it can be, for every child. □

RESOURCES

KBH Productions, Inc.
Kimbo Educational Records and Educational Activities.
P.O. Box 477, Long Branch, NJ 07740
KIM 9068C "Children's Games" tape—excellent for K-3.
KIM 2015 "Simplified Rhythm Stick Activities" LP record by Laura Johnson—very good for younger students.
KIM 7054 "Get a good START" Aerobics fitness activities for young children by Georgiana Luccione Stewart.
KEA 6020 C "Rhythmic Parachute Play" tape by JoAnn Seker and George Jones.
LP 9015 "Tinkling" by Carmencita Y. Kazan Educational Activities, Inc.
Box 392
Freeport, NY 11520 (ask for free catalog)
"Learning Basic Skills Through Music" volume 2 by Hap Palmer—excellent.
"Clap, Snap, and Tap" by Ambrose Brabelton.

A few months ago, Rita Henriquez Roark became the Assistant Superintendent of Education for the Carolina Conference of SDA, Charlotte, North Carolina. She has been a teacher and principal in several multigrade schools in Florida, and most recently served as assistant principal of Greater Miami Academy.

REFERENCES

- ¹ Ellen G. White, *Fundamentals of Christian Education* (Nashville Tenn.: Southern Publishing Assn., 1923), pp. 21, 22.
- ² *Ibid.*, p. 22.
- ³ _____, *Counsels to Parents, Teachers, and Students* (Mountain View, Calif.: Pacific Press Publishing Assn., 1943), p. 335.
- ⁴ *Ibid.*, p. 346.
- ⁵ _____, *Testimonies for the Church* (Mountain View, Calif.: Pacific Press Publishing Assn., 1948), vol. 3, p. 137.
- ⁶ *Ibid.*, vol. 2, p. 413.
- ⁷ *Ibid.*, p. 490.
- ⁸ _____, *The Ministry of Healing* (Mountain View, Calif.: Pacific Press Publishing Assn., 1909), p. 238.
- ⁹ _____, *Counsels on Health* (Mountain View, Calif.: Pacific Press Publishing Assn., 1951), p. 171.
- ¹⁰ *The Ministry of Healing*, p. 238.
- ¹¹ _____, *Messages to Young People* (Nashville, Tenn.: Southern Publishing Assn., 1930), p. 379.
- ¹² *The Ministry of Healing*, p. 127.
- ¹³ Maria W. Piers and Genevieve Millet Landau, *The Gift of Play* (New York: Walker and Company, 1980), pp. 15, 16.
- ¹⁴ *Ibid.*, p. 21.
- ¹⁵ *Ibid.*, p. 102.
- ¹⁶ Doris Bergen, *Play as a Medium for Learning and Development* (Portsmouth, N.H.: Heineman, 1987), p. 15.
- ¹⁷ *Ibid.*, p. 131.
- ¹⁸ Robert Lee, *Religion and Leisure in America*, quoted by Robert E. Neale in *In Praise of Play* (New York: Harper & Row, 1969), p. 14.
- ¹⁹ *Counsels to Parents, Teachers, and Students*, pp. 73, 74.
- ²⁰ _____, *Education* (Mountain View, Calif.: Pacific Press Publishing Assn., 1903), p. 287.

LEGAL UPDATE

Continued from page 31

mentioned sexual harassment/misconduct guidelines may include but are not limited to the following:

- 1) Verbal harassment or abuse (e.g. degrading comments, propositions, jokes, etc.);
 - 2) Subtle pressure or requests for sexual activity;
 - 3) Unnecessary touching of an individual (e.g. patting, pinching, hugging, repeated brushing against another person's body, etc.);
 - 4) The threat or suggestion that a person's job, future promotions, wages, etc. depends upon whether he/she submits to sexual demands or tolerates harassment.
4. *Working Environment*—The General Conference recognizes its responsibility to all employees to maintain a working environment free from sexual harassment, and endeavors to achieve this environment through prevention by informing employees that sexual harassment violates the law and is strongly disapproved of by the General Conference, by developing appropriate sanctions and by informing all employees of their right to raise the issue of sexual harassment.
5. *Reporting Incidents*—Sexual harassment at the General Conference will no be tolerated in any form. If any employee encounters such treatment from supervisors, fellow employees, clients or non-employees, the following steps should be taken immediately:
- a. The complainant should report the incident(s) to the department director or director of Personnel Administration. If possible, the complaint should be in written form. The discussion should be conducted in an objective and thorough manner and the complainant should be advised not to discuss the matter elsewhere due to the sensitivity of the complaint.
 - b. The director of Personnel Administration (or designee) will talk confidentially to all involved persons and determine whether an act of unwanted sexual harassment did occur. If possible, written statements will be obtained. If it is determined the complaint is

valid, immediate and appropriate disciplinary action will be taken. Depending on the severity of the act, the discipline may range from a written warning placed in the offending person's file to immediate termination.

- c. The director of Personnel Administration will then talk to the complainant and explain that corrective action has been taken.
6. *Third-Party Reports*—All employees who are aware of incidents of sexual harassment in the workplace are responsible for reporting such incidents to the director of Personnel Administration for investigation. □

**General Conference Employee Handbook* (February, 1988), pp. 29-31.

Ruth Parish is Director of Personnel for the General Conference of SDA Risk Management Services, Takoma Park, Maryland.

OF INTEREST TO TEACHERS

Continued from page 36

and content needed to substantially improve math and science education," says Susan Fuhrman, National Science Foundation consortium director.

Who Wants to Teach?

In interviews with 275 college-oriented high school sophomores about their perceptions of the teaching profession, researchers for the Southeastern Educational Improvement Laboratory found only 16 who were interested in teaching. Of the 170 of these students who were taking advanced courses, only four professed an interest in teaching. One student said, "To get me to teach you would have to kill me first."—Reported by *R&D Preview*, April 1989.

What Students Do in Summer

According to the U.S. Census Bureau, 33 percent of children spend the summer at home with someone; 22 percent attend school; 17 percent go to someone else's home; 13 percent are at home alone; 9 percent go to work with their parents; and 6 percent have other arrangements. □