

**OHALAH: Association for Jewish Renewal**  
**Policy and Procedure regarding**  
**Breach of Professional Trust: Sexual and Financial Ethics**

**Amended January 28, 2007**

**PLEASE NOTE: If you believe that you may have cause to file an ethics complaint or if you have questions about making an ethics complaint, please contact Rabbi Paula Marcus, Chair of the OHALAH Ethics Committee at 831-251-6363.**

**If you prefer to speak with a man, please contact Rabbi Natan Margalit of the OHALAH Ethics Committee at 617-894-0105.**

***Preamble***

As Jewish clergy, we are called to be spiritual leaders and are expected to embody the highest ethical standards in both our professional and personal lives. Thus, it is imperative that we conduct ourselves with honesty, morality, and integrity in all of our dealings with those whose lives we touch. We expect all of our members to make a commitment to ethical professional conduct. Failure to maintain these standards will be grounds for revocation of membership.

***Ethical Guidelines***

1. All members shall abide by the ALEPH Code of Ethics and 18 Principles, with special emphasis on creating safe environments in our synagogues, institutions, and Jewish communities ensuring the equality of men and women in all aspects of communal Jewish life.
2. All members shall be scrupulous in their financial dealings and shall be held fully accountable for all monies, other than their own private resources, over which they have access to and/or control as a rabbi, cantor or spiritual leader, in accordance with the highest values of Jewish ethical teachings.
3. Grounds for removal from membership include: misuse of the spiritual and educational power of the rabbinate, cantorate or other spiritual leadership positions for illicit sexual, financial, or other personal advantage; conviction of a felony involving moral turpitude; fraudulent misrepresentation of professional credentials; or failure to fulfill contractual obligations in the absence of mitigating circumstances.
4. Members shall conduct their interpersonal relations in accordance with the Torah's teachings regarding *kevod haberiyot*, *lashon hara*, *hasagat gevul*, *ladun lekhaif zechut*, and *teshuvah*. In the clearest words, our Torah directs us: "You shall not steal; you shall not deal deceitfully or falsely with one another . . . Do not pervert justice. Do not give special consideration to the poor nor show respect to the great . . . You must love your neighbor as (you love) yourself." [Lev. 19:11,15,18]

## A. INTRODUCTION AND GENERAL PRINCIPLES

1. We, the members of the OHALAH: Association of Rabbis for Jewish Renewal (hereinafter referred to as "OHALAH"), affirm our commitment to act in an ethical manner consistent with the highest principles of Judaism, particularly towards our congregations, congregants, and colleagues. Consistent with that commitment, we set forth principles and procedures to guide our members and their congregations and congregants who might confront ethical issues within the scope of this resolution.
2. The ethical principles contained in this resolution are intended: (1) to protect against abuse of rabbinic authority as well as abuse of authority of other spiritual leadership, and to prevent the appearance of such abuse; and (2) to preserve the integrity of the clergy-congregant relationship.
3. Abuse of Rabbinic or Other Spiritual Authority. By virtue of their titles and positions, clergy are invested with authority that entails a concomitant responsibility to avoid using such authority for personal gain -- financial or otherwise. Clergy's primary consideration at all times must be the interest of the congregant/constituent, congregation, agency, or institution engaging his/her services. As Jewish clergy we recognize that this responsibility is part of a sacred covenant between God and the Jewish people. The exploitation of this spiritual authority for his/her self-interest constitutes a breach of the trust implied in relations with congregants and other constituents.
4. Preservation of Clergy-Congregant Relationship. The clergy-congregant relationship depends upon a mutual expectation that the relationship will remain primarily professional and pastoral. Effective clerical work of necessity involves conveying empathy, connection, and warmth to congregants, which can sometimes blur clergy-congregant boundaries. We recognize the humanity of clergy and congregants, and the existence of unavoidable and difficult dilemmas in negotiating the relationship between clergy and congregants. Nonetheless, clergy are primarily responsible for establishing and preserving appropriate boundaries that ensure the integrity of the clergy-congregant relationship.

## B. DEFINITIONS

1. In this resolution, "congregation" may also refer to a havurah, school, Jewish organization, or other institution served professionally by clergy.
2. In this resolution, "congregant" may also include a student, counselee or layperson.
3. In this resolution, "married" also includes one in a partnered or committed relationship.
4. In this resolution, "clergy" includes rabbis, cantors, and spiritual leaders in other categories that are hereafter accepted for membership in OHALAH.

## C. GENERAL ETHICS COMMITTEE PROCEDURES

1. The purpose of ethics procedures under this resolution is to determine whether a member acted unethically in his/her professional role. If so, what steps should be taken to respond to the situation?

2. These procedures are based on a concern with fairness and with the protection of the clergy person, the complainant, the congregation, and OHALAH and its members. Respect for all parties shall be shown.
3. Hearings and investigations are not criminal proceedings. They shall operate on principles of fairness, but are not bound by rules of criminal or civil courts, and not by halacha. They may be decided on the basis of the preponderance of evidence.
4. The confidentiality of all parties shall be preserved throughout the process unless they request otherwise except as specifically provided below.
5. The Chair of the Ethics Committee shall see that written records are kept at all stages of the proceedings.
6. Since the inquiry concerns the ethical and professional integrity of clergy and by implication OHALAH, proceedings shall not be vacated on the basis of the clergy person's resigning his/her position, reaching a financial settlement, or resignation from OHALAH.
7. No member of the Ethics Committee or the Board of Governors of OHALAH on appeal shall participate in any case in which she/he has a close relationship to one of the parties or other potential conflict of interest.
8. If the clergy person against whom a complaint has been brought refuses to respond or cooperate, the Hearing Committee appointed by the Ethics Committee will still proceed, bearing in mind the presumption of innocence and the other general principles in this section.
9. OHALAH undertakes to bear the costs of investigating a complaint, including those associated with the Hearing Committee visiting the affected community to gather information.

#### D. FINANCIAL AND OTHER BREACHES OF TRUST

1. It is unethical to use funds of the congregation for personal financial gain without the knowledge and consent of the congregation. It is unethical to exploit a clergy relationship with a congregant, staff member, or colleague for personal financial gain.
2. It is unethical to misrepresent one's professional education, experience, or credentials.
3. As suggested by Section A, there can be other breaches of professional trust that are not enumerated in this resolution.

#### E. PROFESSIONAL BOUNDARIES

1. Clergy behavior toward congregants that is intended to communicate caring can, on occasion, be misinterpreted by congregants as inappropriate blurring of clergy-congregant boundaries. Such behavior can significantly impair clergy-congregant relations and should be avoided where possible. Clergy are obliged to be especially sensitive to the danger of such misperception and to avoid behavior that could reasonably be misconstrued by a congregant. In

particular, clergy should be sensitive to appropriate locations and hours for meetings, as well as appropriate and inappropriate physical contact and comments.

2. In the event that a congregant misinterprets clergy concern as a romantic or sexual interest, it is the clergy person's responsibility to state unequivocally that such a relationship is not appropriate. In such a situation, the clergy person is strongly urged to seek advice from colleagues and/or other professionals.

#### F. DEFINITIONS: PROFESSIONAL SEXUAL ETHICS

1. **Sexual Harassment.** It is unethical to engage in sexual or other harassment of a congregant, staff member, student, colleague or other person with whom clergy deals professionally. Sexual harassment is defined as, but not limited to, deliberate or repeated seductive speech, sexual comments, gestures, physical contacts, and inappropriate visual attention such as leering. It may include unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

2. **Unethical Sexual Activity.** It is unethical for clergy to engage in, or attempt to engage in, sexual activity with a minor, an unwilling adult, a married or partnered congregant, or a congregant or other person whom a clergy person is counseling or aiding in life cycle events, conversion, or other pastoral situations. It is also unethical for a clergy person to engage in, or attempt to engage in, sexual activity with anyone who is similarly dependent on the clergy person. Such sexual relationships are unethical even if suggested or welcomed by the congregant. It is the responsibility of clergy to maintain appropriate boundaries. Sexual activity may include intimate or unwanted physical contact as well as intercourse.

3. **Single Clergy and Congregants.** Although not automatically unethical, any sexual relationship between a single clergy person and a single congregant is fraught with risks for both parties and is illegal in some states. These risks include ambiguities about the perceived power of the clergy, the clergy person's ability to provide future pastoral care for the congregant, and the future of both parties in the congregation. A sexual relationship effectively ends the clergy-congregant or clergy-constituent relationship between the parties, and the clergy person is responsible in assisting the congregant/constituent in obtaining rabbinic or other spiritual leadership support elsewhere if necessary. Clergy in small or isolated communities should be especially aware that a problematic relationship may make it difficult for the congregant to stay in the synagogue and result in the congregant's loss of a significant Jewish connection. A sexual relationship between a single clergy member and a single congregant is potentially an ethical violation, and to be avoided where possible. Clergy are strongly urged to seek guidance from colleagues or other professionals before beginning such a relationship.

4. It is unethical to engage in sexual activity with an adult that is prohibited in paragraph F.2 within one year of the termination of a pastoral or other professional clerical relationship. There must be a full termination of relationship to help break the power imbalance and thus allow the potential of a healthy, mutual relationship to grow. This does not mean that any relationship after one year is automatically ethical, but that it will be assessed on a case-by-case basis. Some states and professional organizations prohibit relationships for longer periods following the termination of a professional relationship.

## G. SPECIFIC PROCEDURES

1. The Chair of OHALAH's Ethics Committee is the central person to receive complaints or initiate action under this resolution. The President of OHALAH shall designate a vice-Chair or an alternate in case the Chair of the Ethics Committee is unavailable, or excuses him/herself due to conflict of interest or other extenuating circumstances.
2. The Ethics Committee may receive complaints from a congregant, congregational officer, rabbinic or cantorial association, affected party, other layperson, or colleague. Any member of the Ethics Committee may file a complaint, stating the reasonable grounds for further inquiry.
3. To be accepted by the Ethics Committee for investigation, a complaint must contain specific information about the approximate dates, location, and type of alleged misconduct. It is the responsibility of the Chair of the Ethics Committee to inform the complainant of the procedures and that the accused clergy person will be informed of the substance of the complaint.
4. The Chair of the Ethics Committee will assist any potential complainant in filing a complaint promptly. While there is no explicit time limit, the interests of fairness are better served when a complaint is presented within six months of an alleged violation.
5. The Chair, after consultation with at least one member of the Ethics Committee, will submit to the committee, in writing, his/her consideration whether there is a sufficient cause to investigate the complaint in more detail. This shall be submitted within two weeks of the complaint (paragraphs G.2). If the Chair determines that the case does not merit an inquiry, the other committee members will have two weeks to agree with this determination by a simple majority or if there is a majority disagreement, the committee shall proceed with a formal inquiry of the complaint. If it is determined that there is not sufficient cause the complainant shall be notified in writing.
6. In any case involving alleged abuse of a minor, the Chair shall immediately report the matter to the appropriate legal authorities.
7. If there is sufficient cause to investigate the complaint in more detail, within one month of the decision to investigate, the Chair of the Ethics Committee shall appoint a Hearing Committee of at least three to conduct appropriate proceedings on the matter. At least one member of the committee shall be an OHALAH member. In allegations of sexual misconduct, at least one member shall be of each gender.
8. The Chair of the Ethics Committee shall offer to assist in finding a friend (chaver) or mentor to help the person and/or institution understand the procedure and offer support through the process. These friends (chavarim) or mentors should be made available to the alleged victim(s), congregation/institution, and support staff. A chaver or mentor may not be a member of the Ethics Committee or a member of OHALAH's Board of Governors. It is not intended that the chaver or mentor play an active role in the proceedings. In order to preclude this from occurring, the chaver or mentor will be asked not to speak during the proceedings.
9. As soon as possible, and no later than the appointment of a Hearing Committee, the accused clergy person shall be notified by certified mail of the complaint and asked to submit a written response to the allegation. If the clergy person fails to respond within thirty days, the

investigation will still continue. The complainant will be notified of the substance of the response, and if appropriate, be given an opportunity to submit a reply in writing.

10. Subsequent to notifying the accused clergy person, but before convening a hearing, the Chair of the Ethics Committee shall notify the President or another appropriate officer of the congregation (or other institution where the accused serves as clergy or is otherwise employed) of the allegations, without revealing names given in confidence. With the clergy person's consent, the substance of his/her written response will also be shared. The Ethics Committee Chair shall share information with the President on Ethics Committee time lines and procedures, including a copy of this document. The Ethics Chair shall also share information on resources available to the congregation for dealing with this matter. The accused clergy person shall be informed of this notification. The Ethics Chair will emphasize to the President the desirability of confidentiality, when appropriate.

11. Placement. As of the date of implementation of this resolution, OHALAH does not have a placement service or a staff person to provide assistance with placement. Members of OHALAH are invited to post public service announcements on OHALAH's general e-mail list regarding job opportunities they believe may be of interest to fellow OHALAH members. At the time that the Chair of the Ethics Committee notifies the accused of the complaint, he/she shall ask the President of OHALAH to suspend the subscription of the accused to the general e-mail list until the resolution of the ethics complaint.

12. Communication Regarding a Pending Complaint. Immediately upon receipt of an ethics complaint, the Chair of the Ethics Committee shall inform the President of OHALAH of the name of the accused. The President shall immediately inform the Board of Directors of ALEPH: Alliance for Jewish Renewal that an ethics complaint has been received and shall request that ALEPH inform all of its divisions and constituent organizations that OHALAH is in the process of investigating an ethics complaint. The divisions and constituent organizations shall be invited to discuss with the President of OHALAH the names of any candidates it or its constituents may be intending to hire. Without providing any substantive information regarding the ethics investigation, the President shall advise such persons that an investigation is underway.

13. Suspension With Pay. Depending on the nature of the complaint, following appointment of a Hearing Committee and notification of the congregational or institutional President or other officer, the Chair of the Ethics Committee, in consultation with the OHALAH President and the Rabbinic Director of ALEPH in his/her capacity as a member of the Board of Governors of OHALAH, may recommend to the congregation temporary suspension of the clergy person with pay and benefits, until the Hearing Committee meets and the Ethics Committee can make a decision. It is understood that suspension with pay may be of mutual benefit in a difficult situation, without prejudice to a particular outcome. In the event that the clergy person is suspended, the Ethics Committee will make all reasonable efforts to render a decision within three months from the date upon which it is informed that the clergy member was suspended.

14. Congregational Officer Leave of Absence. Depending on the nature of the complaint, the Ethics Committee Chair may recommend that any complainant in a position of authority in the congregation whose work involves the clergy (e.g. congregational officer, committee Chair) take a leave of absence until the matter is resolved.

15. Hearing Committee:

a. The hearing committee shall review the written complaint, the accused's written response to the complaint, and the complainant's written reply to the response, if any. The Hearing Committee may request that the parties submit further written testimony, statements, or documents, as appropriate.

b. If deemed necessary and appropriate, the Hearing Committee may conduct additional proceedings on the telephone or using other technology, for the purpose of, but not limited to, the taking of additional testimony, hearing arguments, conducting mediation efforts, or for any other purpose that may assist it in resolving the complaint.

c. If deemed necessary and appropriate, the Hearing Committee may conduct additional proceedings in person, for the purpose of, but not limited to, the taking of additional testimony, hearing arguments, conducting mediation efforts, or for any other purpose that may assist it in resolving the complaint. The Hearing Committee may hold a number of sessions. In consultation with the Chair of the Ethics Committee, they may solicit testimony from others who have direct knowledge or professional expertise relevant to the complaint.

d. The Hearing Committee may recommend that the accused clergy person meet with a mental health professional with experience in this field, chosen by the Ethics Committee for a professional assessment to be communicated to the committee.

e. During the above processes, either party may recommend to the Hearing Committee that it seek to interview particular witnesses or seek particular documents. The Hearing Committee retains the discretion to limit the number, length and order of all submissions.

f. Within a reasonable time following the completion of its proceedings, the Hearing Committee shall present a written report to the Ethics Committee, with findings of fact regarding the merit of the complaint.

16. The Ethics Committee shall meet within a reasonable time of the written report. A quorum of three members who were not part of the Hearing Committee is necessary for this meeting that may be held electronically or by telephone. In addition to the report of the Hearing Committee, the Ethics Committee (or subcommittee) may receive additional written statements from the complainant, the accused or their advocates.

17. Ethics Committee Actions. The Ethics Committee may recommend a number of actions, including but not limited to:

a. No Cause for Action

b. Advisory. This is an educational message to the clergy person for an inadvertent or minor violation. It may include recommendations.

c. Reprimand. This action is a significant reproof or rebuke of a member. It is based upon an assessment that the reprimand is adequate to ensure that the unethical or inappropriate actions will not recur and where the committee feels that the member can continue to function as a clergy person. A reprimand may include probation.

d. Suspension from OHALAH. This is subject to approval of the OHALAH Board of Governors. This shall mean a discontinuation of membership privileges in OHALAH for a fixed period of time. This action is taken in a case where there is a major ethics violation and the continued functioning of the clergy person may be threatening to the well being of the clergy person or others, but where a period of therapy or other treatment may result in his/her future return to active clerical work. The person under suspension may not take any active role in OHALAH. Suspension from the organization will be communicated to OHALAH members. It is automatically combined with probation (defined below in section 19).

e. Expulsion from OHALAH. This is subject to approval of OHALAH Board of Governors. This step is recommended when in the judgment of the Ethics Committee, the clergy person cannot continue to function as a member of OHALAH. It may also be taken based on a criminal conviction (felony involving moral turpitude or serious misdemeanor involving moral turpitude) in a court of law, related to a member's functioning as a clergy person. The accused clergy person facing expulsion has the right to present testimony to the Board of Governors. Expulsion from the organization will be communicated to OHALAH members.

#### 18. Probation:

a. Probation may be required in case of reprimand and will be required in case of suspension. The Ethics Committee shall monitor compliance. The Ethics Committee may require financial restitution, apology, or psychological treatment (in-patient or out-patient) or limitations on employment settings as conditions of probation.

b. The key criterion for ending probation will be the Ethics Committee's assessment that it is reasonably sure that the violation will not recur, and that the member's continued service as clergy does not pose a threat to the well-being of the clergy person or others.

c. The length of the probation may be extended if deemed appropriate by the Ethics Committee. Likewise, at any time during the probationary period the Ethics Committee may require a different action based on new information, a new understanding of previous information, non-compliance with the terms of probation or non-cooperation with the Ethics Committee.

d. Probation may not extend beyond three years without a review by the Ethics Committee. Probation, an extension of probation, or its conditions, may be appealed by the clergy person under probation to the Board of Governors.

19. The final decision of the Ethics Committee will be simultaneously shared with personal letters to the complainant, the accused, and the congregational or institutional President or other officer. The President of OHALAH and the Rabbinic Director of ALEPH shall also receive written notice of final decisions. An advisory or reprimand shall not be publicized to OHALAH membership or to the Board of Directors of ALEPH by name, although the general circumstances may be described in the Ethics Committee's annual report. It is at the accused clergy person's option as to whether a finding of no cause for action will be publicized to the membership of OHALAH and/or the Board of Directors of ALEPH. Suspension or expulsion shall be communicated by name to OHALAH's membership, and to other rabbinic, cantorial and professional organizations of which the clergy person is a member, and the Board of Directors of ALEPH, which shall convey this information to its divisions and constituents. The President of OHALAH may also share information regarding suspension or expulsion with the congregational or institutional organization with which the clergy person's congregation is affiliated.

20. Appeal. Any decision of the Ethics Committee may be appealed by the accused or the complainant to the OHALAH Board of Governors within thirty days of the decision. The Board of Governors will render a final decision by a majority vote within two months of the appeal.

21. Appeal of Suspension or Expulsion. In the case of an appeal of suspension or expulsion approved by the Board of Governors, the Board of Governors will appoint an appeal committee consisting of at least three people who previously have not heard the case to consider the appeal. This appeal committee shall deliver a recommendation to the Board of Governors that will render a final decision by majority vote within two months of the appeal.

22. Consultation. The President of the Board of Directors and the Chair of the Ethics Committee may seek advice at any stage from professionals and others who have expert knowledge useful in the particular case at hand.

23. Variation in Timetable. The timetable above is to provide a prompt and fair inquiry. The Ethics Committee Chair may extend a deadline above if necessary. Any delay or change in the timetable will be communicated in writing by the Ethics Committee to all the affected parties.

24. Inquiries. Confidentiality is crucial. However, when it is deemed to be in the best interest of protecting the public, OHALAH, and its members, and ALEPH and its divisions and constituents; the Chair of the Ethics Committee may respond to inquiries about allegations regarding a specific OHALAH member. The Chairperson may reveal: a) that an investigation of the alleged violation is underway; b) that the investigation has been resolved but is confidential; or c) that the member has been suspended or expelled. No other details are to be revealed.

#### H. FOLLOW-UP

##### Support for OHALAH members

1. OHALAH undertakes a particular responsibility to a clergy person who is the victim of unsubstantiated rumors, and will do everything possible to provide support to the victimized clergy person and assist in the healing of the affected community.

2. If there is a finding of unethical behavior by a clergy person, OHALAH recognizes an obligation to offer continuing concern, spiritual advice and support to the victim, the congregation, and support staff even after the conclusion of formal proceedings.

The President of OHALAH should consult with the Chair of the Ethics Committee, the Hearing Committee, and the victim's advocate on appropriate ways of offering continued contact and moral support.