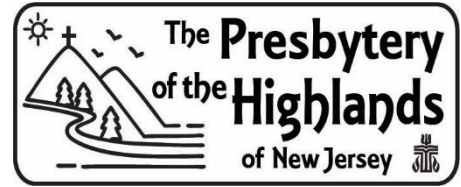


PRESBYTERY OF The Highlands of New Jersey SEXUAL MISCONDUCT POLICY AND ITS PROCEDURES



I. Policy Statement

It is the policy of the Presbytery of The Highlands of New Jersey that all ministers of word and sacrament, temporary members, officers, ruling elders, employees, and volunteers of the presbytery are to maintain the integrity of the pastoral, collegial, employment, and professional relationship at all times. Persons who engage in sexual misconduct are in violation of the principles set forth in Scripture, and also of the pastoral, collegial, employment, and professional relationship. It is never permissible or acceptable for a member, officer, employee, or volunteer to engage in sexual misconduct.

Distribution

Copies of this policy and its procedures shall be made available to all those who are members of and/or participate in activities of the presbytery. This policy and its procedures are to be made available to persons who accuse others of misconduct, including those who are or claim to be victims of sexual misconduct, as well as their families.

II. Standards of Conduct

... As [God] who called you is holy,
be holy yourselves in all your conduct;
... Tend the flock of God that is in your charge, ...
not under compulsion but willingly, ...
not for sordid gain but eagerly. ...
not lord it over those in your charge,
but be examples to the flock.
... You know that we who teach will be judged with greater strictness.
1 Pet. 1:15; 5:2-3; Jas. 3:1, NRSV

The ethical conduct of all who minister in the name of Jesus Christ is of vital importance to the church because through these representatives an understanding of God and the gospel's good news is conveyed. "Their manner of life should be a demonstration of the Christian gospel in the church and in the world" (*Book of Order*, G-2.0104).

The basic principles of conduct guiding this policy are as follows:

1. Sexual misconduct is a violation of the role of ministers of word and sacrament, temporary members, officers, ruling elders, employees, and volunteers who are called upon to exercise integrity, sensitivity, and caring in a trust relationship. This improper conduct breaks the covenant to act in the best interests of other persons within the presbytery.
2. Sexual misconduct is a misuse of authority and power that breaches Christian ethical principles by misusing a trust relationship to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. If a ruling elder, employee or volunteer initiates or invites sexual content in the relationship, it is the minister's, temporary member's, or officer's responsibility to maintain the appropriate role and prohibit a sexual relationship.
3. Sexual misconduct takes advantage of the vulnerability of persons who are less powerful to act for their own welfare, including children. It is antithetical to the gospel's call to work as God's servant in the struggle to bring wholeness to a broken world. It violates the mandate to protect the vulnerable from harm.

Definitions

Sexual Misconduct is the comprehensive term used in this policy to include:

Child sexual abuse: including, but not limited to, any contact or interaction between a child and an adult when the child is being used for the sexual stimulation of the adult person or of a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult is always considered forced whether or not the child consents. In the Presbyterian Church (U.S.A.), the sexual abuse definition of a child is anyone under age eighteen.

Sexual abuse: as defined in the *Book of Order*: “Sexual abuse of another person is any offense involving sexual conduct in relation to (1) any person under the age of eighteen years or anyone over the age of eighteen years without the mental capacity to consent; or (2) any person when the conduct includes force, threat, coercion, intimidation, or misuse of office or position” (“Rules of Discipline,” *Book of Order*, D-10.0401c).

Sexual harassment: defined for this policy as follows: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment, or their continued status in an institution
- b. submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual;
- c. such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, or offensive working environment; or
- d. an individual is subjected to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit men, women, or children.

Rape: sexual contact by force, threat, or intimidation.

Sexual conduct: (such as offensive, obsessive, or suggestive language or behavior, unacceptable visual contact, unwelcome touching or fondling) that is injurious to the physical or emotional health of another.

Sexual Malfeasance: defined by the broken trust resulting from sexual activities within a pastoral, collegial, employment, or professional relationship that results in misuse of office or position arising from such a relationship.

Misuse of technology: use of technology that results in sexually harassing or abusing another person, including texting, or emailing suggestive messages and images to persons with whom one has a pastoral relationship. It is never appropriate to view pornography on church or presbytery property. When this includes a person under the age of eighteen, it is considered child abuse. There is never an expectation of personal privacy when using technological equipment owned by a church or the presbytery or within the context of ministry.

III. Presbytery Response to Allegations of Sexual Misconduct

A. Principles

In responding to allegations of sexual misconduct, teaching elders, temporary members, officers, ruling elders, employees, and volunteers of the presbytery should seek healing and assure the protection of all persons. Where possible, the privacy of persons should be respected and confidentiality of communications should be maintained.

In responding to allegations of sexual misconduct, teaching elders, temporary members, officers, ruling elders, employees, and volunteers of the presbytery should seek to uphold the dignity of all persons involved, including persons who are alleging harm, persons who are accused of sexual misconduct, and the families and communities of each.

The presbytery's response to allegations of sexual misconduct may include:

- *inquiry into facts and circumstances;*
- *possible disciplinary action (administrative, judicial, or both ;)*
- *pastoral care for aggrieved persons and their families and others;*
- *pastoral care and rehabilitation, if needed, for those accused and care for their families; and*
- *pastoral care for congregations, the presbytery and other employing agencies.*

The presbytery's response will be made with concern for:

- *Confidentiality. Respect for persons privacy, reputations, and records is highly necessary on the part of all those involved in the process and of the presbytery at large. Some incidents may also prove to involve church and/or secular legal processes. Confidentiality is governed by the principle of "need to know," unlike "secrecy" which means that no information will be provided to anyone. Consequently, information about any allegation of misconduct received by the presbytery and the process of resolving the allegation shall be provided only to those specific members of presbytery or a session or congregation who have a responsibility which creates a need to know. However, specifics of the allegation shall be governed by rules of privacy and be available only to those responsible for the resolution of the allegation.*
- *Truthfulness. Information and responses may be shared as appropriate with the involved parties, with the presbytery and its committees, and with sessions. Given the need for fairness and compassion, falsifying, or withholding information by anyone making an allegation of misconduct or any accused person responding to allegations of misconduct is unethical. If charges are found to have been brought maliciously or without grounds, the accuser may be identified, and further action taken.*
- *Respect for Ecclesiastical Law. Although there are many similarities with civil and criminal legal procedure, ecclesiastical law has its own precedents and procedures that will be controlling in the implementation of this policy.*

The presbytery has jurisdiction over its ministers, temporary members, officers, ruling elders, employees, and volunteers. If one of these persons is alleged to have committed an offense against Scripture, the PC(USA) Constitution, or the presbytery bylaws, operating manual, or policies, the presbytery has the duty to inquire into the allegations and, if the allegations are proven, to correct the behavior of the member, officer, or employee and ensure the safety of others in the community.

Allegations of sexual misconduct are always considered allegations of offense against Scripture. Such allegations trigger the disciplinary processes of the PC(USA) set forth in the "Rules of Discipline" in the *Book of Order*. In the case of an employee of the presbytery, the individual will be covered by the procedures of the written sexual misconduct and personnel policies of the presbytery.

If the person accused of sexual misconduct is no longer a minister, temporary members, officer, ruling elder, employee, or volunteer of the presbytery, but the conduct occurred while the person was acting on behalf of the presbytery, the presbytery does not have jurisdiction to correct the behavior, but it does have a duty to hear the allegations of offense and to take measures to prevent future occurrences of harm. The presbytery may appoint an administrative committee or commission to hear the allegations of sexual misconduct. The presbytery may also take measures to prevent future occurrences of harm through education and policy.

B. Reporting Requirements

1. Reporting Sexual Misconduct

A person needing to report that a minister of the word and sacrament, temporary member, officer, ruling elder, employee, or volunteer of the presbytery has committed sexual misconduct shall contact the stated clerk of the presbytery for guidance regarding filing the report. If the allegations are against the stated clerk, then the presbytery leader shall be contacted. The report of allegations is placed in writing, and the presbytery will respond

by using the procedures set forth in the “Rules of Discipline” of the Book of Order. The presbytery will respond by using procedures set forth by the sexual misconduct policy of the presbytery.

2. Receiving Reports of Sexual Misconduct

Reports of allegations of sexual misconduct will occur in a variety of ways and may come from persons who have or who do not have a formal relationship with the presbytery. Because the presbytery cannot control to whom the victim of sexual misconduct will speak first, it is important that officers, the presbytery leader, employees, and persons highly visible to the members of the presbytery understand how reports of incidents are channeled to the proper person, keeping in mind the mandatory reporting requirements for allegations of child abuse.

Reports of allegations of sexual misconduct should never be taken lightly or disregarded and allowed to circulate without concern for the integrity and reputation of the victim, the accused, and the presbytery. Reports of allegations should be dealt with as matters of highest confidentiality, both before and after they have been submitted to appropriate authorities as outlined below.

The first person receiving the initial report of allegations of sexual misconduct should not undertake an inquiry alone or question either the victim or the accused, but, instead, shall contact the stated clerk who will determine the relationship of the person accused of sexual misconduct with the presbytery and shall make sure that the allegations of offense are filed with the council with jurisdiction over the person accused. If the allegations are against the stated clerk, then the presbytery leader shall be contacted.

With respect to information learned by ministers of the word and sacrament or ruling elders commissioned to limited pastoral service in a confidential pastoral care or therapy conversation, a relationship of trust and confidentiality shall be maintained, as described in G-4.0301. That Book of Order section, and section G-4.0302 that follows, describe several specific exceptions to the confidentiality requirement:

- (1) if there is likely "a risk of imminent bodily harm to any person."*
- (2) if the case involves "knowledge of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or an adult who lacks mental capacity," AND one or more of the following conditions apply:
 - (a) "such information is gained outside of a confidential communication as described in G-4.0301,"*
 - (b) the person making the report "is not bound by an obligation of privileged communication under law," or*
 - (c) the person making the report "reasonably believes that there is risk of future physical harm or abuse."**

In any of the above cases, it is mandatory to file a report with both the Presbytery and with civil legal authorities.

If the report is made orally, the person receiving the report of allegations should request that the person making the report of allegations place it in writing. A report of allegations of sexual misconduct in writing from a member of the presbytery alleging another minister, temporary member, officer, ruling elder, employee, or volunteer of the presbytery committed an offense must be acted on according to the “Rules of Discipline” of the *Book of Order*. If the stated clerk or presbytery leader receives a report of allegations in writing from a nonmember of the presbytery alleging another teaching elder, temporary member, officer, ruling elder, employee, or volunteer of the presbytery committed sexual misconduct, the report also should be acted on according to the “Rules of Discipline” of the *Book of Order*. If the person who makes the report is unwilling or unable to place it in writing, any member of the presbytery may make the written statement that will automatically trigger the “Rules of Discipline” of the *Book of Order*.

3. *Mandatory Reporting of Child Abuse*

Any member of the presbytery or a church who is engaged in ordered ministry and any certified Christian educator employed by the presbytery or a congregation, shall report to ecclesiastical and civil legal authorities knowledge of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of a confidential communication as defined in G-4.0301, (2) she or he is not bound by an obligation of privileged communication under law, or (3) she or he reasonably believes that there is risk of future physical harm or abuse. (G-4.0302).

C. Responding

The presbytery response will vary according to the relationship of the presbytery with the person who is accused of sexual misconduct. Ministers, temporary members, officers, ruling elders, and volunteers are subject to inquiry and discipline (censure and correction) under the “Rules of Discipline” of the *Book of Order*.

When an allegation of offense of sexual misconduct has been received by the stated clerk of the presbytery, the clerk will report to the presbytery that an offense has been alleged and that the presbytery will proceed according to the procedures set forth in the “Rules of Discipline” of the *Book of Order*. The presbytery shall appoint an investigating committee according to its rule to inquire into the allegations. The investigating committee must promptly begin its inquiry into the allegations. Delay may cause further harm to the victim and/or the accused.

When a minister renounces jurisdiction, the stated clerk shall report the renunciation at the next meeting of the presbytery and shall record the renunciation in the minutes. The status of any pending charges may be shared with the presbytery at that time.

Employees are subject to oversight and correction by the Personnel Committee of the presbytery according to the personnel and sexual misconduct policies. In this case, the personnel committee will be responsible for the inquiry. The presbytery may choose to appoint an administrative commission for the review of the allegation. The committee or commission that will respond to the allegation of offense of sexual misconduct will do the following:

- a. Determine whether or not the allegation gives rise to a reasonable suspicion of sexual misconduct by the accused.
- b. If so, gather additional information necessary to make a decision about correcting the behavior.
- c. Determine any remedies, including limiting ministry, suspension, or termination necessary and advisable under the circumstances. If the accused is a member of another denomination, that denomination will be notified of the allegations and the response.
- d. Inform the victim and the accused of the remedy.
- e. In all cases, the personnel committee shall prepare a written report, which shall be included in the accused’s permanent personnel file. The accused shall be allowed to attach any written statements to said documents, also for permanent inclusion in the permanent file.

The presbytery must cooperate with civil authorities in an investigation of child sexual abuse or other criminal sexual misconduct. Church disciplinary proceedings cannot interfere with a criminal investigation by civil authorities and may have to be suspended until these are completed.

D. Presbytery Record Keeping

The presbytery should keep detailed records of its actions and minutes of its deliberations and its conversations with the accuser, the accused, and other parties involved, correspondence, and copies of the reports received from committees or commissions. Such records will be kept confidential as far as possible. The stated clerk will maintain the records while the inquiry is in process.

IV Prevention and Risk Management

A. Implementation

The Book of Order requires all councils to adopt and implement a sexual misconduct policy (G-3.0106). This policy should be reviewed and updated regularly.

B. Liability and Insurance

The presbytery should regularly inform its liability insurance carriers of the activities and programs it operates or sponsors and of the duties and responsibilities of officers, employees, and volunteers. The presbytery shall obtain an endorsement to its general liability insurance policy specifically covering sexual abuse and molestation. Such coverage shall provide for legal defense expenses and judgments in civil suits brought against the presbytery, its teaching elders, temporary members, officers, ruling elders, employees, and volunteers.

c. Employment Practices

1. Record Keeping

Accurate record keeping is an essential part of hiring and supervision practices of the presbytery. A personnel file shall be maintained on every employee, minister, and temporary member. The file should contain the application for employment, any employment questionnaires, background checks, references responses, and all other documents related to an employee's employment, except records which may be required, by law, to be kept in separate files.

2. Prescreening Applicants

The presbytery will establish thorough and consistent hiring practices. If an applicant is unknown to the employer, the employer should confirm the applicant's identity by requiring photographic identification such as a driver's license. The presbytery should perform a background check, including a national and/or international criminal background check, on all applicants that may have interaction with children and youth. Part of pre-employment screening should include specific questions related to discovering previous complaints of sexual misconduct.

3. References

The presbytery is responsible for contacting references for prospective ministers, and employees. A written record of conversations or correspondence with references should be kept in the teaching elder's or employee's personnel file.

In dealing with ministers when transferring from one position to another, the presbytery leader or stated clerk will have the responsibility for previous employer reference checks. The presbytery leader or stated clerk is obligated to give truthful information regarding allegations, inquiries, and administrative or disciplinary action related to sexual misconduct of the applicant or teaching elder.

If false or misleading information is given by the applicant or teaching elder, or relevant information is withheld, the applicant or minister should be eliminated from consideration. Applicants should be informed of

negative comments regarding sexual misconduct and shall be given an opportunity to submit additional references or to give other evidence to correct or respond to harmful information obtained from a reference.

V. Educating and Training- Awareness

Since the issue of sexual misconduct has become an ever more present reality, there is an emerging need to educate and train a wide variety of persons. Persons needing this specific education include: ministers ; volunteers; officers; nonprofessional and professional staff; and candidates for teaching elder. Education for these persons and groups maybe different on a group-by-group basis. A primary requirement for all persons should be common knowledge regarding professional and ministerial boundaries, and the presbytery sexual misconduct policy. All ministers of word and sacrament in active service in a parish setting, validated ministry, member at large, or a retired minister in a volunteer or part time parish position shall participate in presbytery sponsored sexual misconduct prevention/boundary training every three years.

The appropriate presbytery committees should include training for inquirers, candidates, newly ordained pastors, and new pastors to the presbytery regarding sexual misconduct and the presbytery's policy.

Appendix

Meeting the Needs of All Involved

In cases of sexual misconduct there are needs that have to be met for the good of all persons, and groups. To ensure that the presbytery is ready to meet the variety of needs present, an independent response coordination team may be named. This team will not investigate the allegation or in any way function as an investigating committee for disciplinary purposes, but should confine itself to coordinating a process that will meet the specific needs of victims and their families (if any), the accused and family (if any), the presbytery and congregations.

A. The Needs of the Victim

The presbytery, and response coordination team should assure that adequate treatment and care are available for alleged victims of sexual misconduct and their families.

Sometimes, the victim or family is so angry and alienated from the church, that offers of help may be perceived as insincere or as attempts of a cover-up. If the victim or family at first refuses, the church should continue to offer help. Above all the church should not act in a self-protective manner by ignoring the victim and their families.

The extent of the damage to the victims of sexual misconduct will vary from person to person, and is influenced by such factors as the degree or severity of abuse, the age and emotional condition of the victim, human dynamics, and the importance of one's religious faith. The presbytery and response coordination team are to assume in all cases that the victim has been wounded by the experience.

Feelings of guilt, shame, anger, mistrust, lowered self-esteem, unworthiness, and feelings of alienation from God, self, the religious community, and family are frequent injuries suffered by victims. It is important for the response coordination team to be sensitive to the victim's pain and need for healing, and to act by making appropriate pastoral care available.

The following are some of the needs of the victim:

1. To be heard and taken seriously. From the time that the victim is first able to indicate that sexual misconduct has occurred, that person should receive immediate attention and serious consideration from all church representatives.
2. To receive pastoral and therapeutic support. The victim may require spiritual and professional assistance as a

result of sexual misconduct. The response coordination team should offer to help arrange for such support from a pastor and therapist, if the victim desires. Discussions with such people would be confidential, privileged conversations.

3. To be informed about church process and progress with regard to the accusation. One member of the response coordination team should be the church contact person for the victim. Frequently, this contact person will give the victim information as to what is happening in the church as a result of the accusation.

4. To receive legal advice. The response coordination team should suggest that the victim might benefit from independent legal advice. (Legitimate claims might be more effectively pursued and flimsy or false claims discouraged.) If requested, the response coordination team should suggest ways in which independent legal advice can be obtained.

5. To be assured of an advocate of one's own choosing. A victim may need continuing moral support from one individual who is present while the church process deals with the accusation. This advocate may be a relative, friend, or someone suggested by the response coordination team. This advocate could speak for the victim, if necessary.

- To be assured that justice will be pursued. The victim needs to be told by the response coordination team, and shown by the processes of the church, that justice is being pursued through fact-finding, truth-telling, confrontation, and agreement that may include removal or temporary exclusion of the accused from office or adjudication of the complaint.
- To receive healing and reconciliation. In addition to specific forms of restitution mentioned above, the victim needs to receive a sense of healing and reconciliation with all concerned—the self, the family, the church and, ideally, the accused. The response coordination team can help bring this about using the church's processes and resources. While the above are needs of the victim, one recognizes that all of these needs may also not be met through a reasonable handling of a specific case, but may only occur over a lengthier period of time. All of these needs, however, should be taken seriously and compassionately, and the rights of the victim respected.

B. The Needs of the Accused

The presbytery shall offer treatment and care for the accused as well as alleged victims and families. If the accused is a minister, this is the primary responsibility of the committee on ministry.

Feelings of guilt, shame, anger, mistrust, lowered self-esteem, depression, unworthiness, and feelings of alienation from God, self, the religious community, and family are often experienced by the accused. In addition, there may be fear of job loss, incarceration, and indignation if an allegation is false.

When a person is found not guilty of charges of sexual misconduct, it is important for the governing body or entity to see that the decision is disseminated as widely as possible within their power, unless doing so would further injure the person accused.

1. Personal Care

Whether the allegations about the accused are eventually found to be true or not, the accused deserves to be treated with Christian kindness and respect. The response coordination team may suggest that the accused seek spiritual support or professional counseling. People in staff positions, such as presbytery executives or stated clerks, should not engage in personal counseling of the accused because of their potential involvement in disciplinary process.

2. Economic Security and Care for Family of Accused

When an allegation of sexual misconduct has been made against a minister, the economic security of the accused is directly threatened, along with reputation, career, and family relationships. Again, the committee on ministry can be of assistance.

The response coordination team may alert the committee on ministry to the possible spiritual, emotional, and financial needs of the family of the accused and recommend expert resources.

C. The Needs of a Congregation in a Context of Sexual Misconduct

The presbytery and response coordination team should be aware of the problems the presbytery and congregations may experience following allegations of sexual misconduct by a minister, ruling elder, officer, employee, or volunteer. The allegations may polarize the presbytery or congregations, damage morale, create serious internal problems, and even limit the trust a congregation may place in succeeding pastors. Efforts should be taken to recognize and identify the problems and heal any damage that may be done to the presbytery or congregation.

When there is sexual misconduct on the part of a minister, ruling elder, non-ordained staff, or volunteer in a particular congregation, a number of needs unique to that congregation will emerge since sexual misconduct impacts congregations in different ways. Therefore, these needs will not necessarily emerge in the same sequence in each situation. Depending on the parties involved in the sexual misconduct, some of the needs may not emerge. In any event, those managing the church's response to the sexual misconduct will want to know that the following needs may emerge:

1. Pastoral Care

Members and staff of the congregation will need pastoral care. If it is the minister who is involved in the sexual misconduct, care will need to be provided by another member of the ordained staff (if the church is a multiple-staff church) or by a trained interim pastor. If the pastor leaves as a result of sexual misconduct, in extreme cases a trained interim pastor or consultant in sexual misconduct may need to work with the congregation for an extended period of time.

If it is not a pastor who is involved in the sexual misconduct, then the pastor will provide the needed care for the congregation. The pastor, if not previously trained in this specialty area, will need to consult with denominational specialists who will advise him or her how to proceed and any anticipated problems.

2. Information About the Case

Members of the congregation will need opportunities both to receive and give information. If a case of sexual misconduct becomes a matter of public knowledge within a congregation and if a minister has been found guilty of sexual misconduct, the interim minister or consultant may hold appropriate meetings with individuals, small groups, or with the whole congregation. Such meetings should provide information about sexual misconduct in general, Presbyterian polity and our judicial process, and how others who may have been victimized may be heard and ministered to. If the offender is not the minister, then the minister may perform these functions. At such meetings, one may expect members to vent their feelings. An opportunity for this to happen should be provided. If this venting does not take place, then it may create serious problems for the future of the congregation, for future pastors, and for the presbytery.

3. Resource Persons

In light of the above needs, the following are several resource persons whose services would be valuable to a congregation in the context of sexual misconduct: a trained interim minister, a committee on ministry representative knowledgeable in polity and the effects of sexual misconduct in the church, a consultant or therapist with knowledge and experience in dealing with sexual misconduct, an attorney who can discuss legal aspects of a case, an insurance agent who can advise the congregation about their exposure to liability or coverage.

It is the responsibility of the presbytery to establish policy and its procedures governing cases of sexual misconduct in that jurisdiction.