

PITTSBURGH PRESBYTERY OF THE PRESBYTERIAN CHURCH (U.S.A.)

POLICY AND PROCEDURES ON SEXUAL MISCONDUCT

Adopted June 3, 2004

I

INTRODUCTION

As God who called you is holy, be holy yourselves in all your conduct.

1 Peter 1:15

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 gospels' good news is conveyed. It is incumbent upon the church, when sexual misconduct occurs, to find ways to care for everyone involved with compassion and justice.

We believe that Scripture and our faith in Jesus Christ call all of us to assume high ethical and moral standards in all of life, including all expressions of our sexual behavior. Human sexuality is an integral part of who we are as persons. Our commitment is to model the example of Christ and to be rooted in the love of Christ in all relationships. For any Christian to betray trust by sexually abusing another, whether that other person is a Child or an adult, is to deny his or her own Christian identity. Such a betrayal is a serious injury to the one abused and a violation of faithfulness to Christ.

We further believe in justice for all persons. Human sexuality can become the basis for oppression and injustice, violating the intention of God's creative order. When the trust relationship is broken, such breach by sexual misconduct produces Victims and causes wounds that may require extended care before healing can begin to occur. That breach also injures the particular congregation as well as the whole body of Christ in ways that require special efforts for healing. Because of the serious consequences of sexual abuse, the Church must make every effort to assure that sexual abuse does not occur within its jurisdiction. When such abuse does occur, the church must make a clear and just response.

It is the policy of the Presbytery that all church members, church officers, ministers, employees and volunteers of governing bodies and entities of the Presbytery are to maintain the integrity of the ministerial, employment, and professional relationship at all times. Sexual misconduct is a violation of the employment and professional relationship and is never permissible or acceptable. The principles expressed in Part IV of this policy are recommended as a guide to the churches of the Presbytery, their members, employees, and volunteers. The churches are urged to adopt a policy substantially similar to this Policy.

II

PERSONS COVERED

A. Persons covered by this Policy are all persons employed by or seeking employment with the Presbytery, all volunteers of the Presbytery (while acting on behalf of the Presbytery), and all Ministers of the Word and Sacrament in the Presbytery.

B. This policy also covers those who are accused of sexual misconduct under the following two circumstances:

1. Where access to the Accuser/alleged Victim by the Accused is related to the Accused performing some form of service to or appointment by a committee, council, or board of the Presbytery.
2. When the behavior of the Accused, though not conducted in a church or a Presbytery related setting, raises questions for the Presbytery regarding the character and effectiveness of the Accused.

III

SEXUAL MISCONDUCT

SEXUAL MISCONDUCT, as used in this Policy, includes:

- A. Child Sexual Abuse, as defined in the Appendix
- B. Sexual Harassment, as defined in the Appendix
- C. Rape or sexual contact by force, threat, intimidation, or misuse of power in a trust relationship
- D. Sexual conduct (including, but not limited to, sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, such as obscene or suggestive language or behavior, unacceptable visual contact, touching or fondling) that is unwelcome and/or repeated when the person engaged in the conduct knows or has been informed that the conduct is unwelcome or offensive to the recipient.
- E. Sexual conduct within a ministerial (e.g. clergy with a member of the congregation) or professional relationship (e.g. counselor with a client, lay employee with a church member, Presbytery executive with a committee member who may be a lay person, a minister, elder, or deacon), including sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature. This definition does not apply to relationships between spouses.

- F. Sexual misconduct as used in the policy is intended to include any conduct which would come within the meaning of “sexual abuse” as used in the Book of Order (D10.0401(c)).

IV

PRINCIPLES AND STANDARDS OF CONDUCT

- A. Sexual misconduct is a misuse of authority and power that breaches Christian ethical principles by misusing a trust relation to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. Even if the parishioner, client, employee or student initiates or invites sexual content in the relationship, it is always the responsibility of the pastor, officer, employer, volunteer, counselor, supervisor, teacher or adviser to prohibit a sexual relationship.
- B. Sexual misconduct is a violation of the role of pastor, officer, employer, volunteer, counselor, supervisor, teacher, or adviser of any kind who is called upon to exercise integrity, sensitivity, and caring in a trust relationship. Sexual misconduct is also a violation of the covenant to act in the best interests of parishioners, clients, co-workers, employees, and students.
- C. Sexual misconduct takes advantage of the vulnerability of children and persons who may lack the power to protect themselves from such misconduct. Sexual misconduct is antithetical to the gospel call to work as God’s servant in the struggle to bring wholeness to a broken world. Sexual misconduct violates the mandate to protect the vulnerable from harm.
- D. For the above reasons, sexual misconduct is prohibited by the Presbytery and will never be condoned or tolerated.

V

SEXUAL MISCONDUCT RESPONSE TEAM

- A. Purpose and Function

The Sexual Misconduct Response Team (hereafter referred to as the Response Team) shall be a Standing Committee of the Presbytery. The purpose of the Response Team is to receive and to quickly and objectively respond to reports of sexual misconduct by persons covered by this policy. The Response Team will seek to provide support for the Accuser/Victim as he/she decides how to resolve the problem, as well as to show concern for the Accused. The Response Team shall be available to work with the Accuser, the Victim, the Accused, the families involved, the congregation, co-workers of the parties involved, and the Presbytery, seeking to address their respective needs.

The Response Team does not offer legal advice as to either secular or church law and in no way serves as or is a substitute for legal counsel. The Response Team will neither initiate disciplinary proceedings nor be available to testify in disciplinary proceedings arising from an accusation of sexual misconduct.

B. Membership

There shall be seven members of the Response Team, divided, as nearly as possible, into two equal classes, representing both women and men, and representing both Ministers of the Word and Sacrament and elders/lay members of the churches of the Presbytery. The Response Team should include a licensed psychological counselor and an attorney with experience in employment-related law. The members of the Response Team shall be nominated by the Standing Committee on Nominations of Presbytery and elected by Presbytery for a term of three years. Members shall not serve consecutively for more than six years.

The Presbytery shall specify from the members a chairperson of the Response Team. The chairperson shall convene a Sub-Team of at least two persons when a report of possible sexual misconduct is received. It shall be the responsibility of the chairperson to select the persons who will serve on each Sub-Team. The chairperson shall try to select representatives keeping in mind balance and appropriate representation. The Response Team may choose a temporary chairperson from its number to serve in the absence of or unavailability of the chairperson, or where the Presbytery has not named a temporary chairperson.

The team shall be trained to respond to allegations of sexual misconduct and to identify and recognize the issues involved. Team members shall be familiar with the legal, administrative, and disciplinary procedures of the Presbytery. After initial training, the Response Team shall continue to educate itself with respect to these issues.

VI

NEEDS OF THOSE INVOLVED

A. Victims and Families

The Presbytery and Response Team shall endeavor to assure that adequate treatment and care are available to the Victims of sexual misconduct and their families. If the Victim or family at first refuses help, the Response Team should continue to offer help. Above all, the Presbytery shall not act in a self-protective manner by ignoring the Victims and their families.

The extent of the damage to the Victims of sexual misconduct will vary from person to person. The Presbytery and Response Team are to assume in all cases that the Victim is experiencing pain, whether or not the accusations are deemed to be truthful.

It is important for the Response Team to be sensitive to the Victim's pain and need for healing and justice, and to endeavor to make appropriate pastoral care available.

The following may be some of the needs of the Accuser/Victims:

1. To be heard and taken seriously.
2. To receive protection and care if the Victim, for whatever reason, is unable to care for him/herself. To be assured that justice within the church judicial process will be pursued.
3. To be informed about church judicial process and progress with regard to the accusation.
4. To receive pastoral care.
5. To receive healing and reconciliation.
6. To be informed of the right to consult legal counsel.

B. Congregations

The Presbytery and Response Team should be aware of the problems a congregation may experience as a result of allegations of sexual misconduct by a minister, employee, or volunteer. The allegations may polarize the congregation, damage morale, and create serious internal problems. Efforts should be taken to recognize and identify the problems and heal the damage done to the congregation.

Where a case of sexual misconduct becomes a matter of public knowledge, the Response Team, with the permission of the session, will inform the appropriate members of Presbytery staff regarding the status of the case.

C. The Accused

The Presbytery and the Response Team shall be mindful that the Accused is to be presumed innocent until an investigation shows otherwise. Care shall be offered for the Accused as well as Victims and their families. If the Accused is a minister, this is the responsibility of the Committee on Ministry. Confidentiality for the Victim demands that the Accused may only be approached by the Response Team if the Response Team is given permission to do so by the Victim. If that permission is given, the Accused can be offered the opportunity to receive care. There may be circumstances, such as when there is suspicion of Child or elder abuse, when Secular Law requires that the suspected abuse be reported.

If the accusation proceeds to the initiation of a disciplinary case, the provisions of the Rules of Discipline in the Book of Order (Section D 10.0400) shall be followed.

When an Accused is acquitted of charges, the Presbytery, with the written permission of the Accused, shall disseminate the announcement of the Accused's exoneration as widely as possible unless doing so would further injure the Accused.

D. The Non-Victim Accuser

A person other than the Victim, such as a parent, guardian or other advocate for a person who has been the Victim of sexual misconduct, may be an Accuser. In the case of a Child, his or her minority status requires involvement of an adult to act on behalf of the Child. The Response Team shall be aware that a non-Victim Accuser may also have some of the same needs as a Victim.

VII

RESPONSE PROCEDURES

A. Response to Reports of Sexual Misconduct by the Response Team

1. Receiving Initial Reports

All Ministers of the Word and Sacrament and any other persons in leadership positions throughout the Presbytery shall report all incidents of possible sexual misconduct by those covered in this policy to the Sexual Misconduct Response Team immediately. Any person with a complaint or report of sexual misconduct or a question involving this policy may call a Response Team member or address a written communication marked “confidential” to: Response Team

Pittsburgh Presbytery

901 Allegheny Avenue

Pittsburgh, PA 15233

Reports of sexual misconduct shall never be taken lightly or disregarded. Because information or rumors relating to such reports may affect the integrity and reputation of the Accuser, the Accused, the Victim, and the Presbytery, reports of sexual misconduct should remain highly confidential both before and after they have been submitted to the appropriate authorities.

2. Subsequent Response

Once the Response Team is made aware of a sexual misconduct complaint, the Response Team chair will assign two members to be the Response Sub-Team for the Victim/Accuser. That Sub-Team will contact the Victim/Accuser and offer its services on behalf of the Response Team. Because the role of the Sexual Misconduct Response Team is to support, to educate, and to listen compassionately, the Sub-Team will treat all information as confidential except information that must be reported under Secular Law. This Sub-Team may confer with the whole Team, but all

identifying information will be excluded from the conferring process, except to the extent that Secular Law may otherwise require.

The Sub-Team's job is to provide a safe place for the Victim/Accuser to describe what has happened and to explore options available to him/her within the Presbyterian Church for dealing with what has happened. The decision for future action rests with the Victim/Accuser. The Sub-Team, being familiar with the Presbytery Policy and Procedures on Sexual Misconduct, as well as the Rules of Discipline in the Book of Order, will provide accurate information, so that the Victim/Accuser can make an educated decision.

The Victim/Accuser may or may not choose to pursue further help from the Sub-Team or the Presbytery. The Sub-Team, based on information received from the Victim/Accuser, may recommend that the Victim/Accuser seek consultation with a professional (e.g., medical, legal). If such a recommendation is made, appropriate referrals will be provided. The Sub-Team will report to the Presbytery any information that is required by Secular Law to be reported.

If the Accuser is not the Victim, the Sub-Team will encourage the Accuser to tell the Victim about the services available through the Response Team. The Accuser will also inform the Victim of the Accuser's intent to bring accusations to the Response Team and will inform the Response Sub-Team as to whether the Victim objects to the making of accusations.

In some cases, the Victim/Accuser may ask the Response Team to contact the Accused. Before doing so, the Response Team must receive a signed and dated authorization for release of information. The Response Team Chair, upon receipt of such authorization, will then appoint another Sub-Team to contact the Accused and to offer support and information regarding the Presbytery Policy as well as the Rules of Discipline. Appropriate suggestions for professional consultation (including referral resources) will be made.

The utilization of the Sub-Teams by the Victim/Accuser and the Accused may be completely independent from one another. However, in some cases, the people involved may request a joint meeting. If such a meeting is agreed to by the Victim/Accuser and the Accused, both Response Sub-Teams will be present to facilitate the meeting. Both the Victim/Accuser and the Accused will sign a document agreeing that statements made in the meeting will not be subject to subsequent admission in any evidentiary hearing.

The Accuser/Victim shall decide whether or not to file charges with the Stated Clerk. Should the Accuser decide to file charges, he or she will be informed by the Response Sub-Team how to contact the Stated Clerk. The Response Sub-Team's continued involvement at this point will be determined by the needs of the Accuser for continued support. The Response Sub-Team will not be available to testify, except as may be required by Secular Law. (Refer to section V, Part A of this policy.)

3. Written Records

If the Victim/Accuser chooses to proceed and requests the Response Sub-Team's continuing involvement, an adult Victim or non-Victim Accuser may be encouraged to write a detailed description of the alleged sexual misconduct. Because of possible future proceedings, the Victim may want to sign and date the description and attach any supporting documentation. The Victim/Accuser will maintain ownership and possession of this document. The Victim may wish to be in counseling during this process, in order to receive additional emotional support.

Any records kept by the Response Team Chair and/or the Response Sub-Teams will be confidential. Such records should be kept by a team member in a locked space and should be shredded when the contact with those involved has ended, but only after consultation with legal counsel. These records may include names, dates of contact, recommendations, and personal notes.

4. Reporting Child Sexual Abuse or Rape

Members of the Response Team will familiarize themselves with state law regarding the reporting of Child Sexual Abuse. If a Response Sub-Team suspects that Child Sexual Abuse has occurred, the Sub-Team will help the Victim/Accuser understand and comply with state laws regarding incidents of actual or suspected Child abuse and the reporting of such incidents. The Sub-Team will advise the Victim/Accuser to seek legal advice with regard to bringing criminal charges and will report the abuse to the Presbytery for further action consistent with Secular Law.

Whether or not the Accuser agrees, the Response Sub-Team is subject to and will comply with all Secular Law with regard to actual or suspected Child or elder sexual abuse, including mandated reporting related to Child Sexual Abuse.

B. The Presbytery's Response to Reports of Sexual Misconduct

The Presbytery's response shall be in accordance with the requirements of Secular law and the Rules of Discipline under the Book of Order. The pastoral relationship of ministers serving congregations is subject to oversight by the Presbytery in accordance with the Book of Order. Ministers of the Presbytery will be subject to the Rules of Discipline as members of Presbytery. The Committee on Ministry maintains responsibility to work with clergy who are experiencing problems, including accusations of Sexual Misconduct.

1. Formation of an Investigating Committee

If formal charges are filed with the Stated Clerk, an Investigating Committee will be formed to determine further action by the Presbytery.

2. Voluntary Leave for Clergy

For the protection of those involved, the Investigating Committee may suggest a voluntary leave for a Minister of the Word and Sacrament from his or her position. The acceptance and duration of the voluntary leave must be agreed to by the Permanent Judicial Commission, the Investigating Committee, and the minister involved. The terms of the leave will be worked out between the Presbytery and the session of the church.

In the case of alleged sexual misconduct toward a minor under age 18, or toward a person whom it is alleged lacked the mental capacity to consent, there shall be a hearing before two members of the Permanent Judicial Commission within 48 hours of the filing of the allegation. The purpose of that hearing will be to determine whether or not a voluntary leave should be requested or mandatory leave imposed.

If a voluntary leave is recommended, but not accepted by the Accused, the Committee on Ministry may impose mandatory leave and will provide oversight during the period of investigation of an allegation.

3. Discipline of Non-Clergy Employees

An Accused person who is a non-clergy employee of Presbytery continues to be subject to the disciplinary provisions of Presbytery's personnel policy.

4. Compliance with Secular Authorities

The Presbytery shall cooperate with Secular Authorities in their investigations of Child Sexual Abuse or other criminal misconduct. Church disciplinary proceedings shall not interfere with a criminal investigation by civil authorities. Those proceedings may have to be suspended until secular investigations are completed.

5. Media Contact

Any inquiries from the media regarding an incident of sexual misconduct must be directed to a designated representative of Presbytery. Questions from the media shall not be addressed by any member of the Response Sub-Team.

VIII

RISK MANAGEMENT

A. Implementation

The Presbytery will take appropriate steps to inform its members, employees, and congregations of the standards of conduct and the procedures for effective response to be carried out if a report of sexual misconduct is received.

When Child Sexual Abuse or other sexual misconduct that violates Secular Law is alleged, the Presbytery and its congregations are obligated by the Book of Order to cooperate with Secular Authorities in their investigation of the allegation. Ministers are reminded of their duty to cooperate with Secular Authorities in the investigation and prosecution of violations of law. This Section VII is not in any way to be construed as requiring a clergy person to violate his or her duty of clergy confidentiality.

In addition to the provisions of this policy, response to accusations of sexual misconduct by an employee of the Presbytery in the course of employment will also be subject to the Presbytery's existing personnel policy.

Accusations of sexual misconduct may result in the initiation of a disciplinary case by the filing of charges in accordance with the Rules of Discipline of the Book of Order.

The Presbytery shall present educational programs designed to prevent sexual misconduct. All ministers and employees of the Presbytery shall be strongly urged to attend such programs. These programs will be coordinated by the Committee on Ministry.

B. Liability and Insurance

The Presbytery or any of its congregations can potentially be liable for damages for harm caused by sexual misconduct of a minister, employee, volunteer or other persons acting on its behalf.

The Presbytery and its congregations should obtain liability insurance covering sexual abuse and regularly inform their liability insurers of the activities and programs they operate or sponsor, particularly programs whose staff may be considered to be in high-risk occupations. Additions or deletions of such activities or programs should promptly be brought to the attention of their liability insurers.

C. Compliance

All ministers, as a requirement for membership within the Presbytery, shall be required to sign an acknowledgement that they, have read, understand and agree to

comply with this policy. All employees and volunteers of the Presbytery shall do likewise.

D. Distribution

A copy of this policy shall be distributed to all ministers and churches of the Presbytery, Presbytery staff, Investigating Committees, the Committee on Ministry, the Response Team, members of all Presbytery committees and any other person who requests a copy.

The notice attached to this policy as Appendix II shall be posted [**in every church**], in order that all church members, employees, and volunteers may know of the existence and contents of this policy.

E. Volunteers

Volunteers acting on behalf of the Presbytery are subject to this policy. An appropriate screening procedure shall be established by the entity responsible for supervising a volunteer before permitting the volunteer to work in loco parentis with children.

IX

EMPLOYMENT PRACTICES

A. Record Keeping

The Presbytery shall maintain a personnel file containing documents related to this policy for every employee and minister member of the Presbytery.

B. Pre-screening Applicants

Pre-employment screening shall include specific questions related to discovering previous formal charges of sexual misconduct. Persons seeking ministerial calls shall furnish the information requested in the Personal Information Form (PIF) adopted by the General Assembly.

B. References

The Presbytery's staff person for the Committee on Ministry shall contact references for candidates for the ministry, employees, and ministers seeking to transfer into the Presbytery. A written record of conversations or correspondence with references concerning sexual misconduct should be kept in the personnel file for that person.

Prior to a final decision on hiring or accepting a transfer, a report shall be submitted to the Committee on Ministry indicating that there has been no report of sexual misconduct by the applicant, or that there had been a report of sexual misconduct, in which case the nature of the report should be indicated.

An applicant shall be informed of any reports of sexual misconduct and shall be given an opportunity to submit additional references or to give other evidence to correct or to respond to harmful information obtained from a reference prior to a final decision being made on the applicant.

If a reference is requested about any person covered under this policy and a question regarding sexual misconduct is asked, only the Stated Clerk shall be authorized to give a reference on behalf of the Presbytery. The reference shall consist of an accurate and complete summary, without comment or opinion, of the relevant information which is a matter of public record.

Although this policy relating to employment practices applies only to the Presbytery, it is recommended by the Presbytery that each member church of the Presbytery implement employment practices which are the same or substantially similar to those set forth in this policy.

APPENDIX I

DEFINITIONS

Accused is the person against whom a claim of sexual misconduct is made.

Accuser is the person claiming knowledge of sexual misconduct by a person covered by this policy. The Accuser may or may not be the Victim of alleged sexual misconduct. A person such as a family member, friend, or colleague of the Victim may be the Accuser whose information initiates an inquiry.

Child is a person under eighteen years of age.

Child Sexual Abuse includes, but is 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 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 consented to by the Child.

Church, when spelled with the initial letter capitalized, refers to the Presbyterian Church (U.S.A.). Church, when spelled with the initial letter in lower case, refers to local churches in the Presbytery. The word congregation is used loosely for members and participants.

Employee is the comprehensive term used to cover individuals who are hired or called to work for the Presbytery for salary or wages.

High Risk Occupation is that which calls for a person to work in close contact with those who are vulnerable and less capable of protecting themselves, such as children, elderly persons, those who are wholly or partially incapacitated, or clients who are having emotional or personal problems.

Investigation is the term generally used by police, secular prosecutors, and Child protective services when responding to allegations of an offense.

Presbytery, when spelled with the initial letter capitalized, refers to the Pittsburgh Presbytery of the Presbyterian Church (U.S.A.).

Response is the action taken by the governing body or entity when a report of sexual misconduct is received. It may include (1) inquiry into facts and circumstances, (2) possible disciplinary action (administrative or judicial or both), (3) pastoral care and professional intervention for Victims, their families, and others involved in congregational and employment settings, (4) pastoral care and professional intervention for congregational and employment settings, and (5) pastoral care for the Accused.

Secular Authorities are the governmental bodies, whether city, county, state or federal, who are given the responsibility to investigate, criminally prosecute, and/or bring civil charges against individuals accused as sexual crimes or offenses.

Secular Law is the body of municipal, state and federal laws and is often referred to collectively as civil and criminal. Prohibited behavior addressed by this policy may result in criminal charges and/or civil lawsuits filed under Secular Law.

Sexual Harassment in this Policy Means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 1) submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's employment or volunteer service, 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual, or 3) 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

Victim is the term used to identify the person alleged to have been injured by sexual misconduct.

Volunteer is the term used for those who provide services for governing bodies and entities of the Church and receive no benefits or remuneration. Volunteers include persons elected or appointed to serve on boards, committees and other groups. For purposes of this policy, volunteers are treated the same as employees. Liabilities of the governing body or entity are the same for volunteers as for employees.

APPENDIX II

IMPORTANT NOTICE REGARDING SEXUAL MISCONDUCT

Sexual misconduct is not only a violation of the principles set forth in scripture, but also of ministerial, employment and professional relationships. The Pittsburgh Presbytery has adopted a written policy against sexual harassment and other forms of sexual misconduct. The policy applies to all employees and volunteers working on behalf of the Presbytery and to all ministers of the Presbytery.

A copy of the written policy is available for review at the Presbytery Office.

A Sexual Misconduct Response Team has been designated to respond promptly and confidentially to reports of sexual misconduct. Incidents of sexual misconduct may be reported by contacting any member of the Sexual Misconduct Response Team (Names of team members may be requested from Pittsburgh Presbytery.) or by forwarding a written communication marked "CONFIDENTIAL" to:

Response Team

Pittsburgh Presbytery

901 Allegheny Avenue

Pittsburgh, Pennsylvania 15233

All reports and written communications will remain confidential and you will be contacted promptly by a member of the Response Team

PITTSBURGH PRESBYTERY