

## **Sexual Abuse and Harassment Policy**

### **PURPOSE:**

It is the policy of Mission Presbytery that all church members, church officers, non-member employees, Presbytery Staff, educators, inquirers, candidates, contractors, and volunteers of congregations, councils, committees and agencies of the church are to maintain the integrity of the ministerial, employment, and professional relationship at all times. Persons who engage in sexual misconduct of abuse and harassment are in violation of the principles set forth in Scripture, and also of the ministerial, pastoral, employment, and professional relationship. It is never permissible or acceptable for a church member, officer, employee, or volunteer to engage in sexual misconduct.

### **SEXUAL MISCONDUCT**

Sexual misconduct in the ministerial relationship is an abuse of authority and power, breaching Christian ethical principles by misusing a trust and professional relationship to gain advantage over another for personal gratification in an exploitative and unjust manner.

Sexual misconduct is the comprehensive term used in this policy to include but not limited to child (anyone under the age of eighteen) sexual abuse, adult sexual abuse, rape or sexual assault, and sexual harassment.

**Sexual Abuse** is defined in the Book of Order (D-10.0401c):

"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 ordered ministry or position.

Categories of Abuse include:

Child Sexual Abuse includes, but is not limited to, any contact or interaction between a child/minor 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 consented to by the child.

Rape or Sexual Assault is sexual contact by force, threat, or intimidation.

Sexual Conduct offensive, obsessive or suggestive in language or behavior, unacceptable visual contact, unwelcome touching or fondling that is injurious to the physical or emotional health of another. Sexual acts or sexual contact with another person who is incapable of appraising the nature of the conduct or physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act or sexual contact.

Sexual Acts or Sexual Contact arising from the administration to another person of a drug or intoxicant which substantially impairs the ability of that person to apprise or control the nature of the conduct.

Sexual Malfeasance is defined by the broken trust resulting from sexual activities within a professional ministerial relationship that results in misuse of office or position arising from the professional ministerial relationship. Sexual acts or contact between ministers and laity with whom they have a professional relationship. This includes consensual physical relationships. Sexual relationships even when consensual are not acceptable regardless of whether pastoral care is involved. The inherent imbalance of power between the minister and the lay person undermines the validity of such consent.

Misuse of Technology is the 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 ministerial relationship. It is never appropriate to view pornography on church 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 church agency or within the context of ministry.

**Sexual Harassment** includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or their continued status in an institution in either a professional or volunteer capacity;
- (2) submission to or rejection of such conduct is used as the basis for employment or program participation decisions affecting such an individual;
- (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; or
- (4) an individual is subjected to a single intense or severe act or multiple persistent or persuasive acts that insult, degrade, and/or sexually exploit men, women, or children to include, but is not limited to:
  - a) sexually oriented jokes or humor;
  - b) sexually demeaning comments;
  - c) verbal suggestions of sexual involvement or sexual activity;
  - d) questions or comments about sexual behavior;
  - e) unwelcome or inappropriate physical contact/touching;
  - f) graphic or degrading comments about an individual's physical appearance;
  - g) express or implied sexual advances or propositions;
  - h) display of sexually suggestive objects or pictures;
  - i) repeated requests for social engagements after an individual refuses

## **RESPONSE TO ALLEGATIONS OF SEXUAL MISCONDUCT**

In responding to allegations of sexual misconduct, members, officers, and employees of the church 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, members, officers, and employees of the church 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.

Mission Presbytery has jurisdiction over its members, officers, and employees such that if a member, officer, or employee is alleged to have committed an offense against Scripture or the PC(USA) Constitution, the church 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 or the PC(USA) Constitution that trigger the disciplinary processes of the PC(USA) set forth in the Book of Order. In the case of an active non-member who is employed or volunteers with the church, the individual will be covered by the policies and procedures of Mission Presbytery.

If the person accused of sexual misconduct is no longer a member, officer, or employee of the PC(USA), but the conduct occurred while the person was acting on behalf of the PC(USA), the church 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. Presbytery may appoint an administrative commission to hear the allegations of sexual misconduct. The Presbytery also will take measures to prevent future occurrences of harm through education and policy.

### **Reporting Requirements**

#### **1. Reporting Sexual Misconduct**

A person needing to report that a member, officer, employee, or volunteer of the PC(USA) has committed sexual misconduct is encouraged to seek guidance from a PC(USA) teaching elder, ruling elder, or Stated Clerk regarding filing the report.

If the person who is accused of committing sexual misconduct is a member, ruling elder, deacon, volunteer, or employee of a congregation, the report of allegations should be made to the teaching elder, the clerk of session, or the chair of the personnel committee of that congregation. If the accused is a member or officer of the church, the church will respond by using the procedures set forth in the Rules of Discipline of the Book of Order. If the accused is a nonmember employee or volunteer, the church will respond by using procedures set forth by the session of the congregation.

If the person who is accused of committing sexual misconduct is a teaching elder member, the report of allegations should be made to the Stated Clerk of the Presbytery. If the report of allegations is placed in writing, the Presbytery will respond by using the procedures set forth in the Rules of Discipline of the Book of Order. If the person who is accused of committing sexual misconduct is a volunteer or nonmember employee of the Presbytery, the report of allegations first to the supervisor, then to the Personnel Committee, and finally to the Stated Clerk of the Presbytery if the Rules of Discipline of the Book of Order will be used in response. If an allegation is made by one Staff member against another Staff member, the supervisor and Personnel Committee will be notified.

## 2. Receiving Reports of Sexual Misconduct

Reports of allegations of sexual misconduct will not be taken lightly or disregarded and allowed to circulate without concern for the integrity and reputation of the victim, the accused, and the church. Reports of allegations will be dealt with as matters of highest confidentiality, both before and after they have been submitted to appropriate authorities.

Reports of allegations of sexual misconduct may come from persons who have or who do not have a formal relationship with the PC(USA) and may be made to a variety of officers or leaders within the PC(USA). It is the duty of officers to see that any allegation of sexual misconduct is reported appropriately keeping in mind the mandatory reporting requirements for allegations of child abuse.

The first person to learn of an incident of sexual misconduct should not undertake an inquiry alone or question either the victim or the accused unless the incident is divulged in the process of pastoral care, counseling, or a therapy session. If the victim is hesitant to talk to “higher authorities,” the person who has received the initial report has a special pastoral responsibility to build trust and willingness to speak with the accuser, lest the church be unable to respond because no one is able to give firsthand information.

The person receiving the initial report of allegations of sexual misconduct shall analyze the relationship of the person accused of sexual misconduct with the PC(USA) and Mission Presbytery. The supervisor should be notified and talk with both the accuser and the accused to determine if a misunderstanding or miscommunication ensued or if, in fact, an offense occurred. If an offense occurred, the allegations of offense are filed with the council with jurisdiction over the person accused. This may be done by the person alleging harm or by any member of the PC(USA).

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 PC(USA) alleging another member or officer of the PC(USA) committed an offense must be acted on according to the Rules of Discipline of the Book of Order. If a clerk of session or the Stated Clerk receives a report of allegations in writing from a nonmember of the PC(USA) alleging another member or officer of the PC(USA) 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 PC(USA) may make the written statement that will automatically trigger the Rules of Discipline of the Book of Order.

### 3. Mandatory Reporting of Child Abuse

All ruling elders, deacons, Certified Christian Educators, teaching elders, inquirers, candidates, Christian clergy performing ministry service for Mission Presbytery, and contractors are required to report knowledge of child abuse to the civil and ecclesiastical authorities according to the Book of Order standards of confidence and privilege.

## **Responding**

The appropriate council or agency response will vary according to the relationship of the Presbytery with the person who is accused of sexual misconduct. Church members and officers are subject to inquiry and discipline (censure and correction) under the Book of Order. Non-church member employees and volunteers are subject to oversight and correction by the council or agency that employs them.

### 1. Accused Covered by Book of Order

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

Councils and entities 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.

The session has original jurisdiction in disciplinary cases involving members, ruling elders, and deacons of the church, each congregation having jurisdiction only over its own members.

The Presbytery has original jurisdiction in disciplinary cases involving teaching elders and officers serving on committees or agencies of the Presbytery. The Presbytery may only place a teaching elder on administrative leave when allegations of child abuse have been received and the Presbytery has followed the Book of Order procedures to conduct its risk evaluation to determine whether or not a teaching elder member accused of child abuse should be placed on administrative leave (D-10.0106). The permanent judicial commission (PJC) members who will conduct this risk evaluation based upon the allegations and a hearing taking into account counsel from the Presbytery's secular legal advisor.

When a church officer renounces jurisdiction, the clerk of session or Stated Clerk shall report the

renunciation at the next meeting of the council and shall record the renunciation in the minutes of the council. The status of any pending charges may be shared with the council at that time.

## 2. Accused Not Covered by Book of Order

When a council or agency of the Presbytery receives an accusation of offense of sexual misconduct against a nonmember employee or volunteer, the procedural response of the council or agency will be guided by this policy, the Personnel Policies & Procedures. The Personnel Committee (PER) will respond to the allegation of offense of sexual misconduct in the following manner:

- 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
- c) behavior.
- d) 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.
- e) Inform the victim and the accused of the remedy.
- f) In all cases, the PER 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.

## 3. Record Keeping

The council or agency 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. In Case # 208-6, the General Assembly Permanent Judicial Commission (GAPJC) interpreted the Rules of Discipline to say that a council or agency may share the contents of inquiry reports with other councils or entities of the PC(USA) when necessary. The Stated Clerk of the Presbytery will maintain the records while the inquiry is in process.

## **PREVENTION AND RISK MANAGEMENT**

### **Implementation**

This policy is binding upon all members, employees, volunteers, and contractors of or in a professional relationship with the Presbytery, its committees and agencies.

### **Liability and Insurance**

The Presbytery annually will review its insurance coverage for sufficient coverage and specially liability insurance to cover sexual abuse and molestation. The Presbytery will ensure that insurance coverage includes endorsements to cover specific exposures such as camps, day-care operations, shelters, or other outreach programs. Such coverage may provide for legal defense

expenses and judgments in civil suits brought against the council or agency, its officers, directors, or employees.

The Stated Clerk will inform the Presbytery's liability insurance carrier of any alleged caused by sexual misconduct of member of Presbytery, contractor, Christian clergy of another denomination working on behalf of the Presbytery, and paid or volunteer employees.

## **Employment Practices**

### **1. Record Keeping**

The Presbytery will maintain a personnel file on every employee, including teaching elders. 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**

A background check, including a national criminal background check, on all members and Staff of Presbytery as well as all applicants that may have interaction with children and youth; including but not limited to, discovering previous complaints of sexual misconduct.

### **3. References**

The employing council or agency is responsible for contacting references for prospective teaching elders, employees, or volunteers. A written record of conversations or correspondence with references will be kept in the teaching elder or employee's personnel file.

If false or misleading information is given by an individual, or relevant information is withheld, the individual will be eliminated from consideration. Individuals will 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.