

SEXUAL MISCONDUCT POLICY

POLICY FOR PREVENTING AND RESPONDING TO SEXUAL MISCONDUCT PRESBYTERY OF WEST VIRGINIA

Tend the flock of God, that is your charge,
not under compulsion, but willingly,
not for sordid gain, but eagerly, do not lord it over
those in our charge, but be examples to the flock.
I Peter 5:2 (NRSV)

The Presbytery of West Virginia believes and proclaims that all people are created by God who intends that everyone has worth and dignity in all relationships. Our sexuality is a gift from God and when rightly expressed leads to the wholeness of life which God intends for all people. Inappropriate sexual behavior distorts the goodness of God's gift of sexuality, is destructive of relationships and is an abuse of power and trust.

The Presbytery of West Virginia proclaims that sexual misconduct in any form is never permissible. It is a sin against God as well as the person victimized by the sexual misconduct. It is a violation of ministerial, professional and employment relationships. The Church can never be well served by overlooking an abuse of power and trust. When a breach of ethics takes place, this transgression will be dealt with swiftly, with fairness and justice. While the Church is called to offer forgiveness to all persons, it is not called to overlook acts of misconduct by any person.

This policy is based upon and follows *Church Discipline* in the Presbyterian Church (U.S.A.) *Book of Order*.

The purpose of this policy is:

1. To safeguard the members, congregants, and staff of the churches of the Presbytery of West Virginia, the members and staff of the Presbytery, and the people we serve, especially those who are vulnerable, against any form of sexual misconduct, particularly the disciplinary offense of sexual abuse, within the Presbytery of West Virginia.
2. To express our commitment to prevent sexual misconduct by creating an atmosphere in our Presbytery where acts of silence, ignorance, and minimization regarding sexual misconduct are overcome by acts of understanding, respect, care, and justice.
3. To obtain justice and compassion in cases that involve reports or written accusations of sexual misconduct within our Presbytery.
4. To promote healing for all persons, congregations, or entities in cases involving sexual misconduct.
5. To ensure the effectiveness of our Presbytery's judicial processes in cases of sexual misconduct so that the truth shall be determined, the due process rights of those involved shall be honored, wrongdoing shall cease, and all shall be held accountable for their actions.

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The persons covered by this policy include those who serve within the Presbytery of West Virginia and are: ministers of Word and Sacrament; Certified Christian Educators; Certified Associate Christian Educators; Commissioned Pastors; candidates, inquirers, and supply preachers; officers and employees of the Presbytery; members of committees, councils and commissions. The expectations of all persons covered under this policy are that they:

1. shall exercise responsible sexual behavior and maintain the integrity of employment and professional relationships at all times;
2. shall not engage in sexual misconduct as defined in this policy (see definitions);
3. shall deal with allegations of sexual misconduct with seriousness;
4. shall report accusations or instances of sexual misconduct to the appropriate Presbytery officials;
5. shall maintain confidentiality in recognition of the effects of reported sexual misconduct on the reputation and effectiveness of all involved;
6. shall not presume the guilt of the accused while the matter is being investigated and
7. shall comply with all applicable local, state and federal laws.

BASIC PRINCIPLES

1. Sexual misconduct is a violation of the role of pastors, employees, volunteers, counselors, supervisors, teachers and advisers of any kind who are called upon to exercise integrity, sensitivity and caring in a trust relationship.
2. Sexual misconduct is a misuse of authority and power which breaches Christian ethical principles by misusing a trust relation to gain advantage over another in an abusive, exploitative, and unjust manner. If the parishioner, student, client, or employee initiates or invites sexual content in the relationship, it is the responsibility of the pastor, counselor, officer or supervisor to maintain the appropriate role and prohibit a sexual relationship.
3. Sexual misconduct takes advantage of the vulnerability of children and persons who are less powerful to act for their own welfare. It may range from covert and subtle harassment to overt use of force. It is antithetical to the Gospel. The Biblical mandate to protect the vulnerable from harm is violated by sexual misconduct.

DEFINITIONS

Accused- The person against whom an allegation of sexual misconduct is made.

Accuser - Any person reporting sexual misconduct by a person covered by this policy. The accuser may or may not be the victim of alleged sexual misconduct.

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Administrative Leave – The time a minister of Word and Sacrament against whom an offense of sexual abuse, as defined in D-7.0901, has been received shall not perform any pastoral, administrative, educational, or supervisory duties or officiate at any functions such as the administration of the Sacraments, funerals or weddings,” until the matter has been resolved. (D-7.0903)

Advocates – Persons who, at the request of the accuser, those alleged to have been harmed, or the accused, provide support, consultation, and pastoral care. (D-7.10 and D-7.0802) Advocates need not be members of the Presbyterian Church (U.S.A.). If requested, the Stated Clerk will recommend potential advocates.

Church - Capitalized it refers to the Presbyterian Church (U.S.A.). Church when spelled with a lower case refers to particular churches.

Civil Authorities - 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 of sexual crimes or offenses against adults and children.

Civil Law - The body of municipal, state, and federal laws often referred to collectively as civil and criminal law. Prohibited behavior addressed by this policy may result in criminal and/or civil charges filed under civil law.

Confidentiality – A set of rules that limits access or places restrictions on the use of certain types of information. “Confidentiality creates safe and sacred space for individuals to share concerns, questions, and/or burdens and seek spiritual guidance. Confidentiality should not be an excuse to hold secret the knowledge or risk of harm especially when related to the physical abuse, neglect, sexual abuse.” (G-4.0301).

Congregation - A general term for members and participants of a particular church.

Employee - A collective term used to cover individuals who are hired or called to work for salary or wages.

Council – A representative body composed of elders and ministers of the Word and Sacrament; these are sessions, presbyteries, synods, and the General Assembly.

Investigating Committee - The body charged with reviewing any allegation to determine whether it alleges any facts, that if true, constitute an offense as defined by D-7.0103.

Investigation - The term generally used by police, secular prosecutors, and child protective services when responding to allegations of an offense.

Liaison - The person who relates to the victim, or the accused or the congregation throughout the inquiry process and any subsequent proceedings. It is the role of the liaison to determine needs and deploy resources to those to whom the liaison has been assigned. The liaison may also serve as an advocate (see definition above) if called to do so. The out-of-pocket expenses of the person serving as liaison will be covered by the Presbytery.

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Mandated Reporter - A person who is required by civil law to report any and all suspected incidents of child abuse, including child sexual abuse. (See West Virginia Code) In addition, “any member of this church engaged in ordered ministry and any certified Christian educator employed by this church or its congregations, 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 the law, or (3) she or he reasonably believes that there is risk of future physical harm or abuse.” (G-2.0302)

Offense – “Any act or omission by a member of a congregation or a minister of the Word and Sacraments that is contrary to the Scriptures or the Constitution of the Presbyterian Church (U.S.A.).” (D-7.0103). Behavior that violates this policy may be cited in an allegation of sexual misconduct submitted in writing to the Stated Clerk.

Parishioner - An individual who is a member of a particular minister’s congregation, or someone who is relating to the minister as “pastor” as in a non-member counseling setting. For clergy serving in specialized ministries (chaplain, pastoral counselor, campus minister, etc.), “parishioner” is any person receiving the benefit of the minister’s exercise of the office of ministry.

Pornography - “Includes any sexually explicit material (books, magazines, movies, videos, TV shows, telephone services, live sex acts) produced for the purpose of sexual arousal by eroticizing violence, power, humiliation, abuse, dominance, degradation, or mistreatment of any person, male or female, and usually produced for monetary profit. Any sexually explicit material that depicts children is pornography.” (“Pornography: Far from the Song of Songs,” A Policy Statement Adopted by the 200th General Assembly of the PC(U.S.A.))

Response - Action taken when a report of sexual misconduct is received. Any response will follow the processes set out in the Church Discipline section of the current Book of Order.

Response Team - The body constituted to facilitate the process of responding to allegations of sexual misconduct by a person covered by this policy.

Sexual Abuse - “Any offense involving sexual conduct in relation to any person under the age of eighteen years or anyone without the capacity to consent, or any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position.” (D-7.0901)

Sexual Harassment of Another Person - Defined by this policy and by Title VII of the Civil Rights Act of 1964 as: 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.
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

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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 based on the declared judgment of the affected individual.
4. Mutual consent cannot be given when one party is a clergy/professional lay leader in a pastoral, counseling, employer or leadership position within the Church, related organization, or sponsored activity in which the other party is a parishioner, member, counselee, employee, or participant or is under the age of eighteen or is an adult of diminished capacity.

Sexual Malfeasance - Sexual conduct within a ministerial (e.g. clergy with member of the congregation) or professional relationship (e.g. counselor with a client, employee with a church member, presbytery officer or staff with a committee member.) Sexual conduct includes unwelcome sexual advances, request for sexual favors, and verbal or physical conduct of a sexual nature. This definition is not meant to cover relationships between spouses, nor is it meant to restrict church professionals from having normal, social, intimate, or marital relationships.

Sexual Misconduct - The comprehensive term in this policy to include:

1. Child Sexual abuse as defined above.
2. Sexual Harassment as defined above.
3. Sexual Malfeasance as defined above.
4. Rape or sexual conduct by force, threat, or intimidation.
5. Sexual conduct (such as offensive, obscene or suggestive language or behavior, unacceptable visual contact, unwelcome touching or fondling) that is injurious to the physical or emotional health of another.

Victim - The person alleged to have been harmed by sexual misconduct as defined above.

Volunteer - The term for those who provide services and receive no benefits or remuneration. Volunteers include persons elected to serve on boards, committees, and other groups. For purposes of this policy volunteers are treated the same as employees. Liabilities are the same for volunteers as for employees.

DISTRIBUTION

The policy shall be posted on the presbytery's website. Persons may request print copies of the policy from the Presbytery office.

Annually, the policy will be shared throughout the presbytery.

MANDATORY EDUCATION

The Presbytery of West Virginia requires that the following persons shall complete a Presbytery-sponsored training regarding the forms of sexual misconduct and child sexual abuse prevention addressed in the policy every three years. The persons covered by this policy include those who

serve within the Presbytery of West Virginia and are: ministers of Word and Sacrament; Certified Christian Educators; Certified Associate Christian Educators; Commissioned Pastors; candidates,

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inquirers, and supply preachers; officers and employees of the Presbytery. Members of committees, councils and commissions are invited to participate in training. The training will be conducted annually for those persons in the previous categories who are new to the Presbytery in that calendar year or are new since the last workshop.

The Presbytery of West Virginia shall require a certificate of completion for those mandated above to complete training in sexual misconduct and child sexual abuse prevention. (G-2.0603, G-2.1002, and G-2.1103)

The Committee on Ministry and the Vocations Committee are responsible for seeing that the sexual misconduct and child sexual abuse prevention trainings occur regularly, securing compliance with this requirement, and taking action regarding those who fail to comply. Such action may include a warning letter, refusal to approve or renew covenant agreements, and/or being reported to the Presbytery at a regular stated meeting.

SCREENING PROCESS

The Committee on Ministry shall screen all persons seeking pastoral calls with special attention to the Sexual Misconduct Self-Certification as found in the Personal Discernment Profile. The Vocations Committee shall screen all persons seeking ordination by the Presbytery. The Administration Committee shall screen persons applying for Presbytery staff positions. It shall be the Committee on Ministry's responsibility to hold all entities of Presbytery responsible in the implementation of this policy.

The following questions are recommended to each entity:

1. Has a civil, criminal, or ecclesiastical complaint ever been filed against you alleging sexual misconduct? If so, what was the date, nature, and place of these allegations, and the name, address, and phone number of your employer at the time?
2. Have you ever resigned or been terminated from a position for reasons relating to allegations of sexual misconduct? If so, what was the date, nature, and place of these allegations, and the name, address, and phone number of your employer at the time?
3. Have you been required to obtain professional treatment, physical or psychological, for reasons related to sexual misconduct by you? If so, would you be willing to sign a release of information to an appropriate entity of Presbytery?

REFERENCES

In addition to the reference checks and search committee reference checks, the Committee on Ministry chairperson may be asked to obtain additional references. The Administration Committee shall obtain references regarding applicants for presbytery staff positions. References should include inquiries regarding sexual misconduct. A written record of conversations or correspondence shall be kept in Presbytery's files.

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LIABILITY AND INSURANCE

The Presbytery shall maintain liability insurance covering sexual misconduct on the part of persons named in this policy. Insurance against sexual misconduct should include coverage for mental anguish on the part of the harmed.

THE PROCESS FOR REPORTING AN INCIDENT OF MISCONDUCT

D-7.02 of *Church Discipline* in the Presbyterian Church (U.S.A.) *Book of Order* sets forth the process for filing allegations of misconduct.

PRESBYTERY RESPONSE

In any incident of sexual misconduct there are two dimensions that precipitate a response: 1) a pastoral response and 2) a judicial or disciplinary response as outlined in the *Church Discipline* section of the *Book of Order* and governed by confidentiality. Both are key elements in accomplishing the goals of justice and compassion.

1. In responding to accusations of sexual misconduct, the presbytery should seek healing and assure the protection of all persons. Where possible and within the limits of the process contemplated under this policy, confidentiality and the privacy of persons should be respected. The *Book of Order* assures all persons of “judicial processes of accountability.” (D-2.0102).
2. In response to requests from accusers, those alleged to be harmed or the accused, the Committee on Ministry and/or presbytery staff will provide information on resources that are available. The Committee on Ministry will respond in cases of churches harmed by allegations of misconduct
3. The judicial process will follow the *Church Discipline* section of the *Book of Order*.

UPDATING THIS POLICY

The Committee on Ministry shall review this policy bi-annually, following the publication of a new *Book of Order*, so that this policy is in compliance with all constitutional requirements of the Presbyterian Church (U.S.A.), and all requirements of the laws of the States of West Virginia and Ohio. Any necessary changes shall be submitted to the Presbytery for action.

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All churches shall be encouraged to post the following notice, so that members, employees, and volunteers may know of the existence and contents of the Presbytery of West Virginia's "Policy for Preventing and Responding to Sexual Misconduct," which can be found at www.wvpresbytery.org. This will be printed on cardstock and included in the annual year-end mailing.

SEXUAL MISCONDUCT POLICY PRESBYTERY OF WEST VIRGINIA

The Presbytery of West Virginia has a sexual misconduct prevention policy and all church professionals and those laboring on behalf of the Presbytery of West Virginia are expected to adhere to the same code of conduct. Any offenses reported in writing to the stated clerk of the presbytery (D- 7.0102) will be investigated as provided by the Chapter 7 in the *Church Discipline* Section of the *Book of Order* and additionally may be subject to civil or criminal review according to the laws of the state. In the event of any suspected sexual abuse involving children, appropriate local, county or state agencies will be notified. All ministers and church professionals of the Presbytery of West Virginia will observe strict standards of confidentiality, truth-telling, protection of alleged victims and the principle that a person is innocent until proven guilty. All reports of sexual misconduct must be confidentially reported to appropriate presbytery authorities for investigation. The full policy can be found at www.wvpresbytery.org.

The Presbyterian Church (USA) has a sexual misconduct hotline.

The number is 1-866-607-7233 (SAFE). It is staffed by trained professionals who can guide you onto a path so that you can make a report or get more information about doing so. The purpose of this hotline is to report events, even if the victim is not ready to pursue a formal complaint at this time.