

Presbytery of Philadelphia
Adopted July, 17 2021
POLICY ON ETHICS OF SEXUAL BOUNDARIES

I. INTRODUCTION

The Presbytery of Philadelphia (“Presbytery”), in an effort to further the peace, unity and purity of the church through the prevention and remediation of sexual misconduct within the church, has adopted the following policy. This policy applies to all the following: Ministers of Word and Sacrament, Commissioned Lay Pastors (CLP), Certified Christian Educators (CCE), Presbytery staff, those serving on Commissions and Committees of the Presbytery, ongoing volunteers serving on behalf of the Presbytery, and those under care of Presbytery, all of whom are hereafter referred to as “Ministers” whether or not ordained, and as defined in Section V. of this policy. The structures and procedures for responding to allegations of sexual misconduct are mandated by the *Book of Order*.

II. THE PURPOSE OF THIS POLICY

The Code of Ethics of the Presbytery of Philadelphia prohibits sexual misconduct or abuse of any kind. The purpose of this policy is to supplement that Code of Ethics and the Presbytery Child and Youth Protection Policy by:

1. Defining sexual misconduct by Ministers*
2. Providing a policy for
 - a. the enforcement of ethical behavior consistent with the Reformed tradition and civil law, and
 - b. the prevention of sexual misconduct and abuse
3. Describing the judicial and pastoral process, for reporting, addressing, and responding to sexual misconduct in the Presbytery
4. Implementing this policy

III. THE DEFINITION OF SEXUAL MISCONDUCT

Sexual misconduct is an abuse of authority and power, breaching Christian ethical principles by sexually misusing a trust relationship. It is the comprehensive term used in this policy to include, but not be limited to, sexual abuse of adults (including any incapable of meaningful consent), rape or sexual assault (including intimate partner violence/abuse), sexual harassment, and sexual abuse of children. Categories of sexual misconduct are described below.

1. **Sexual abuse** occurs whenever a person in a position of trust, including, but not limited to, those described in the Introduction above, engages, with or without consent, in a sexual act or sexual contact with another person to whom they owe a professional and pastoral responsibility. Such abuse shall include, but not be limited to, the following:
 - a. Any sexual act or sexual contact involving inducement, threat, coercion, force, violence, or intimidation of another person.
 - b. Any sexual act or sexual contact where there is a professional relationship, including consensual physical relationships and when an inherent imbalance

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of power undermines consent.

- c. Any other act defined as “sexual abuse” (or equivalent) under criminal and civil laws, as they may exist from time to time, of the jurisdiction where the act occurs.
2. **Rape, Attempted Rape and Statutory Rape** (as defined by PA Statute) or sexual contact by threat, coercion, force, violence, or intimidation of another person (including intimate partner abuse).
3. **Intimate Partner Violence:** Intimate partner violence (IPV) is abuse or aggression that occurs in a mutually acknowledged romantic relationship. “Intimate partner” refers to current and former spouses and dating partners. IPV can vary in how often it happens and how severe it is. It can range from one episode of violence that could have lasting impact to chronic and severe episodes over multiple years.
4. **Sexual harassment** reflects unwelcome and uninvited behavior (such as offensive, obscene, or suggestive language or behavior, uninvited images, unwelcome touching, or fondling) that is injurious to the physical or emotional health of another, including sexual bargaining relating to the conditions of a person’s employment or participation.
 - a. **Stalking** may be a form of sexual harassment. Stalking is a pattern of repeated, unwanted attention and contact by a person that causes fear or concern for one’s own safety or the safety of someone close to the victim.
 - b. **Psychological aggression** may be a form of sexual harassment. Psychological aggression as a form of sexual harassment is the use of verbal and non-verbal communication with the intent to harm another person mentally or emotionally and/or to exert control over another person. This includes use of all electronic media.
5. **Child sexual abuse** includes, but is not limited to, any interaction between an adult and a child for the purpose of sexual stimulation of the adult or of a third person, including the use of electronic media. The interaction may or may not involve touch. Sexual interaction and/or dating between an adult and a child (a person under the age of 18) is abuse.
6. **Inappropriate Electronic and Social Media Communications**
 - a. No person shall engage in electronic and social media communications that violate any the Presbytery of Philadelphia policies or any local, state, or federal law.
 - b. In all communications related to Presbytery of Philadelphia programs, services, and activities, or made during Presbytery of Philadelphia activities and events, all employees and volunteers should avoid the use of statements or content that reasonably could be viewed as sexually:
 - Derogatory

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- Lewd, pornographic, or obscene
 - Threatening, harassing, or bullying
 - Discriminatory
 - Facilitating illegal activities
 - Crossing the line between professional and personal boundaries
- c. Digital communication (including but not limited to electronic and social media communications, email, text messages, chats, blog and site posts, tweets and messages via social networking sites, etc.) is not confidential. It should be considered public communication in that it can be shared with and forwarded to others.
- d. Online interactions need to be as transparent as those conducted in person.
- e. Laws regarding mandated reporting of suspected abuse, neglect, harassment, bullying or exploitation of children, youth, elders, and vulnerable adults apply in the online world as they do in the physical world.
- f. Community environment and experience can be enhanced by establishing guidelines around respectful and appropriate use of social media and electronic communication devices during worship and church meetings and activities.
- Adults who seek religious or spiritual advice from Ministers* via digital means must understand that their communication is NOT confidential.
 - Use of digital means to communicate nullifies confidentiality. To help maintain appropriate boundaries, Ministers* are encouraged to use privacy settings to shield both adults and youth from viewing content that may be inappropriate if a personal account is used or Ministers* move to another congregation.
 - Participants should consider what will be shown in video communications, such as their surroundings, their clothing and state of dress, etc.
- g. Violations of the Electronic and Social Media Section of this policy may be considered sexual misconduct or abuse. Any and all behavior prohibited in-person, is also prohibited through Electronic and Social Media communications as well.

IV. POLICY FOR THE PREVENTION OF SEXUAL MISCONDUCT

1. Sexual misconduct is never permissible. It is a violation of the principles set forth in Scripture, of the Reformed confessions, as well as of ministerial, pastoral, employment, and professional relationships. Sexual misconduct by a minister is a serious violation of the ordination vows of the Presbyterian Church (U.S.A) and the standards of the

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Presbytery of Philadelphia Policy on Code of Ethics.

2. All Ministers* shall satisfy the requirements of the Boundary Training offered by the Presbytery or another source satisfactory to the Commission on Ministry (COM) or the applicable Presbytery staff.
3. Whereas this policy addresses sexual misconduct by those under the authority of the Presbytery, each congregation and organization in the Presbytery is responsible for developing a policy for church professionals, officers, members, non-member employees, and volunteers, which is consistent with this policy.
4. The Presbytery and its congregations shall periodically obtain from their insurance agents confirmation that their insurance policy covers sexual misconduct liability for its programs and activities.
5. For the protection of all concerned, when a minister and a person with whom the minister is in a pastoral relationship are considering exploring a dating relationship, governing/authoritative bodies concerned with the individuals (ordinarily, the session and the COM), and any individual supervisor, shall be consulted.
6. The conviction in civil courts of any Minister of Word and Sacrament, CLP or CCE of sexual misconduct may be grounds for the revocation of ordination/certification in accordance with the *Book of Order*. Final decision would be under the consideration of our ecclesial disciplinary process with the formation of an Investigative Committee (IC).
7. Concealing or failing to report sexual misconduct tends to perpetuate misconduct. All persons governed by this policy have a duty to report sexual misconduct to the Stated Clerk of the Presbytery, according to the procedural requirements of this policy and the *Book of Order* (G-4.0302, D-10.0401b.).
8. The Presbytery shall maintain and train a standing Sexual Misconduct and Abuse Response Team (SMART). The purpose of SMART is to assure that the Presbytery responds in a smart, trauma-informed way as it provides pastoral care for alleged victim(s), offender(s), affected persons and families, and any affected congregation.
9. The Presbytery shall maintain and train a pool of Presbyterians in good standing (the SMART Pool) from whom may be drawn representatives to train those responsible for carrying out the duties necessary to fulfill the work of the judicial and pastoral care processes after the filing of a complaint of sexual misconduct. Membership in SMART Pool shall be as determined hereafter in V.3.f.iii.

V. POLICY IMPLEMENTATION

1. Availability of Policy and Procedures
 - a. The Stated Clerk shall make copies of this policy available to all persons subject to it, and each recipient shall acknowledge in writing within one month that they have received it and agree to comply. A copy of this policy shall be maintained on the Presbytery of Philadelphia website, and signed copies of acknowledgement kept on

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file by the Stated Clerk of the Presbytery.

- b. Within twelve months of having received this policy, all Ministers* shall be trained by the COM on the nature and prevention of sexual misconduct, or in the case of a candidate under care, by the Commission on Preparation for Ministry and Membership (CPMM). The Stated Clerk of the Presbytery shall keep a record of all who have completed the training and all who have failed to complete the training.
 - c. Continuing members of the Presbytery shall be required to take refresher training no less than once in every 5 years.
 - d. Ministers* shall provide written acknowledgment of receipt of this policy.
 - e. The Presbytery, through SMART, shall train members of the Permanent Judicial Commission (PJC), and anyone sitting on an Investigating Committee (IC) where sexual misconduct is alleged, in sexual ethics and misconduct issues prior to their undertaking their charge.
2. Pre-Employment Screening
- a. Reference Checks
 - i. Screening of Ministers* shall include specific questions related to previous complaints of sexual misconduct. This screening shall include review of the Sexual Misconduct Information of the Presbyterian Church (U.S.A.) Personal Information Form when interviewing persons seeking ministerial calls.
 - ii. The Executive Presbyter, Stated Clerk and/or designee, is responsible for making reference checks through Synod Executives, other Executive Presbyters, or other authorized persons to ascertain any history of sexual misconduct. The Executive Presbyter, Stated Clerk and/or designee shall report findings to the COM. Applicants shall be given an opportunity to correct or respond to information regarding sexual misconduct obtained from a reference check.
 - iii. The person within the Presbytery authorized to give a reference is obligated to give truthful information regarding complaints, inquiries, and administrative or disciplinary action related to sexual misconduct by the applicant. A given reference shall be updated if subsequent events require it.
 - b. Background Checks
 - i. As part of the CPMM clearance process, all incoming clergy shall be required to sign a written consent and release form authorizing Background Check and Credit History.
 - ii. The Executive Presbyter, Stated Clerk and/or designee shall order and review the background reports. The discovery of a criminal or ecclesiastical conviction will not automatically exclude the person from entry into the Presbytery. How the Presbytery makes use of the background report will be determined on a case by case basis. The Executive Presbyter, Stated Clerk and/or designee and the CPMM will counsel both with the candidate and the calling organization where

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appropriate.

- iii. The Executive Presbyter, Stated Clerk, and/or designee shall ensure the confidentiality and appropriate retention of background reports. A candidate who claims that the information in a report is inaccurate, false or incomplete shall have the right to dispute it with the investigative firm.
3. The Judicial and Pastoral Response to Allegations
- a. The submission of an allegation of sexual misconduct triggers various responses within the Presbytery's disciplinary structure. These responses include the initiation of both a judicial process and a pastoral care process. The judicial process is initiated by the Stated Clerk according to the *Book of Order*. The pastoral process is initiated by the Executive Presbyter.
 - b. The responsibilities, structures and procedures for responding to allegations of sexual misconduct are mandated, in part, by the *Book of Order*. Particularly, the roles of the COM, the IC and the PJC are outlined in G-3.0307, D-10.0000 and D-11.0000.
 - c. Initiating the Judicial and Pastoral Processes
 - i. The judicial and pastoral processes begin with a written report to the Stated Clerk of the Presbytery.
 - ii. Sexual acts involving minors (under age 18), allegations of rape, sexual assault or other misconduct that violates criminal law shall be immediately reported to the civil authorities and to the Stated Clerk.
 - iii. There is no statute of limitations for sexual abuse allegations (D-10.0401b).
 - iv. In accordance with the *Book of Order*, the Stated Clerk shall appoint an IC as close to two weeks as practicable after receipt of a written complaint of sexual misconduct.
 - v. If an accuser is unable or chooses not to submit a written allegation, the Stated Clerk shall notify the Executive Presbyter who will direct SMART to offer pastoral support.
 - vi. The Stated Clerk shall inform the Executive Presbyter when a complaint has been filed. The Executive Presbyter shall notify the moderator of SMART in order that the pastoral care process may be initiated.
 - vii. If the Executive Presbyter and/or Stated Clerk determines that the complaint is the subject of civil or criminal litigation, they shall consult legal counsel for the Presbytery. This could put a pause in the ecclesial process until the civil/criminal litigation is resolved.
 - viii. Concerns about the provision of any Minister's * service related to a complaint should be directed to the Stated Clerk. The Stated Clerk will notify the appropriate person, committee or team moderator, and the Executive Presbyter

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or designee of all concerns received so they may make good faith efforts to address all concerns quickly and sensitively.

- ix. All inquiries from the media regarding any alleged incident of sexual misconduct shall be referred to the Executive Presbyter, Stated Clerk, and/or designee, who shall confer with legal counsel for the Presbytery prior to responding to the media.

d. The Judicial Process

- i. Through SMART, the Presbytery shall train all persons assigned to participate in the judicial process to function appropriately in their assigned tasks.
- ii. Any IC shall ordinarily have five members, with at least two members present when meeting with an alleged victim, accused, accuser, or witness. Such meetings should include at least one person who is of the same gender as the person being interviewed.
- iii. Administrative leave shall be administered in accordance with the *Book of Order*, should it be deemed necessary by a PJC review.
- iv. The victim and/or accuser has the right to an advocate as described in D-10.0203a, b. The Presbytery extends the same right to the accused. The accused also has the rights as described in D-10.0203c, including the right to counsel.
- v. The person being accused or the victim may petition the PJC to review the procedures of the IC.
- vi. The Stated Clerk shall treat the names of the accuser(s) and the victim(s) with strict confidentiality, and they shall not be listed in the report of the PJC to the Presbytery. Records of all investigations will not be sealed, but will be available only at the discretion of the Stated Clerk. (D-10.0204 for accused)
- vii. When a determination of guilt has been made by the PJC or a plea of guilty has been received, the Stated Clerk shall read the decision and any censure at the next stated meeting of the Presbytery (D-11.0700). When a pastoral relationship is dissolved as the result of a finding of guilt, the calling organization shall not be required to provide severance beyond the date of dissolution.
- viii. If a minister renounces jurisdiction, remuneration or severance shall not be required past the effective date of the renunciation.
- ix. If censure or a guilty verdict or plea precipitates the retirement of the minister, the status of "Honorably Retired" shall not be conferred.
- x. Any records and files, regardless of medium, pertaining to a complaint, investigation, trial, or settlement discussion, shall be kept confidential. At the conclusion of a case, all related records and files shall be delivered to the Stated Clerk. No committee or its members shall keep copies of related documents.
- xi. The Stated Clerk's annual report to the Presbytery shall include statistics on

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the number of sexual misconduct complaints and a summary of the disposition of each.

e. Restoration

- i. Anyone who has been removed from the exercise of office due to sexual misconduct may apply for restoration to office by writing the Stated Clerk. A minister desiring restoration may apply to the governing body that imposed censure by submitting a written request for restoration to the Stated Clerk. (D-12.0200)
- ii. The Executive Presbyter and/or Stated Clerk, and the moderators of COM and SMART shall select 3-5 persons who are currently or have previously served on SMART, to serve as the Restoration Committee (RC) to consider the minister's request and make a recommendation. The members of the RC shall, when possible, include persons who were involved in the judicial and/or pastoral care processes of the case.
- iii. The RC shall give written notice of the minister's application for restoration to the known victim(s) and session/agency affected by the misconduct. Parties who have been a part of the judicial process shall be given opportunity to speak to SMART. SMART may be consulted by sessions/agencies affected by the misconduct.
- iv. Among considerations toward restoration, the RC should take into account the following:
 - 1) Unequivocal acknowledgement of responsibility for harm done.
 - 2) Conveyance of written apology and offer of restitution to the victim(s).
 - 3) Genuine remorse and repentance demonstrated by a fundamental change in behavior and understanding.
 - 4) Psychological assessment of the minister's readiness to return to office by outside professionals trained in assessing the rehabilitation of sexual misbehavior and/or relational violence as chosen by the Presbytery. The cost of such assessment shall be incurred by the individual seeking restoration.
 - 5) Active participation in a congregation of the Presbytery for a least one year, and the support of the session of that church.
- v. When the RC recommends, in consultation with the psychological assessment as referenced in 4) above, restoration to office for a minister seeking it, the Presbytery shall consider fundamental the affirmative answer to the question "Can you be assured with reasonable certainty that this person will not again violate the boundaries of a ministerial relationship through sexual misconduct?" (After the above has been met, the RC will make a recommendation to the appropriate entities of Presbytery.)

f. The Pastoral Process

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- i. The pastoral care response is carried out by SMART. SMART will work in parallel with the judicial process. SMART will not investigate an allegation or in any way usurp the roles of Presbytery officials or committees. It will begin its work upon the reception of a written or oral request by the Executive Presbyter and/or the Stated Clerk.
- ii. The work of SMART will be pastoral in nature and its responsibilities include:
 - 1) Coordinating a process of care that addresses the specific needs of the accuser(s), alleged victims and their families, those accused and their families, and any affected congregation throughout the process of accusation, review and healing.
 - 2) Assisting the Presbytery to establish and maintain a SMART Pool, or collection of Presbyterians in good standing to serve in the various functions of the pastoral care and judicial process.
 - 3) Providing annual education and training for all members of SMART and the RC and its agents by professionals chosen by the Presbytery for their expertise related to sexual misconduct. This training will include a trauma-informed response in the care of victims, congregations, and others impacted by the abuse. It will also include training in assessing allegations of sexual misconduct and abuse, and rehabilitation of sexual misbehavior and or relational violence.
 - 4) Offering trained advocates to accusers, the accused, family members and/or involved congregation.
 - 5) Providing pastoral support for all those impacted by written allegations.
 - 6) Reporting to the Executive Presbyter and COM the status and conclusion of coordinated care surrounding each incident of response.
- iii. The membership of SMART
 - 1) SMART shall be nominated by the COM through the Committee on Nominations (CON) and approved by the Presbytery. SMART shall consist of six to nine members on staggered 6 year terms, with aggregate expertise, as far as possible, in the following areas:
 - a. The dynamics of sexual abuse and trauma-informed care
 - b. Psychological counseling
 - c. Child advocacy
 - d. Legal
 - e. Conflict management
 - f. Insurance
 - g. Personnel management

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- h. Pastoral practices
 - i. Church governance and policies
 - j. Public relations
- 2) The moderator of SMART shall be a member of COM, appointed by the COM in consultation with the Executive Presbyter, Stated Clerk and/or designee.
- iv. Members of SMART and any individual participating in the work of SMART shall sign a pledge of confidentiality which shall be submitted to the Executive Presbyter and/or Stated Clerk.

V. DEFINITIONS

ACCUSED is the person against whom a complaint of sexual misconduct is made.

ACCUSER is the person claiming knowledge of sexual misconduct by a person whose conduct is covered by this policy. The accuser may or may not be the person aggrieved by the alleged sexual misconduct.

ADVOCATE is a person available to the accuser, victim, accused or any affected family member, that accompanies the same at any or all stages of the process of complaint review. In this policy, "advocate" does not denote legal representation. If the accuser, victim, accused or any affected family member cannot or does not have an advocate readily available, one will be offered to them by SMART.

CONFIDENTIALITY is the assurance of and respect for the privacy, reputation and records required on the part of all those dealing with any allegation of sexual misconduct. Information related to any accusation will only be available to those persons officially related to the ongoing process described in this policy.

INVESTIGATING COMMITTEE (IC): The IC is a body formed by the Stated Clerk for the purpose of investigating a complaint of sexual misconduct by one of the ministers* of the Presbytery. The Presbytery and *Book of Order* (D-10.0200) outline the formation, responsibility and conduct of the IC. The IC is charged to make determination of the sufficiency of evidence to bring charges against an accused.

MANDATED REPORTER: Under Pennsylvania law, persons who, in the course of their employment, occupation or practice of their profession, are required to report any and all suspected incidents of child or elder abuse. Clergy are specifically named as mandated reporters when confidential communication causes them reasonable belief that there is risk of imminent bodily harm to any person.

MEANINGFUL CONSENT is consent for a sensual or sexual relationship given by an adult. Meaningful consent is possible only when no professional relationship exists between the minister and the adult. Neither a minor (under 18) nor anyone without sufficient mental capacity is able to give meaningful consent.

*MINISTER, for the purpose of this policy, is a collective word that refers to all Ministers of

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Word and Sacrament, Commissioned Lay Pastors (CLP), Certified Christian Educators (CCE), Presbytery staff, those serving on Commissions and Committees, ongoing volunteers serving on behalf of the Presbytery, and those under care of Presbytery.

PERMANENT JUDICIAL COMMISSION (PJC): The continuing body elected by the Presbytery to conduct trials when an IC files charges. The PJC's structure and duties are described in D-5.0000.

RESTORATION COMMITTEE (RC): is the body formed by the Executive Presbyter and/or designee, the Moderators of the COM and SMART, to respond to a request of a minister to be restored to office after having been found guilty of sexual misconduct.

SEXUAL MISCONDUCT and ABUSE RESPONSE TEAM (SMART): SMART is the body of six to nine Presbyterians elected by the Presbytery to offer pastoral care for alleged victims, offenders, and affected families and congregations and to resource and train those responsible for the judicial process

VICTIM is the person alleged to have been sexually abused by a person covered under this policy.



POLICY ON ETHICS OF SEXUAL BOUNDARIES TASK FORCE:

Rev. Kris Schondelmeyer (Deep Run)
Rev. Wallace N. Fletcher, Jr. (Honorably Retired)
Elder Susy Christensen (First, Philadelphia)
Elder June Higgins (Oxford)
Candidate Cassandra Heintz (Carmel)