

## **Policy and Procedures on Sexual Misconduct**

### *Presbytery of Newark, NJ*

#### **Guiding Principles**

This policy applies to officers and employees of Presbytery, persons serving on Presbytery Committees, Teams and commissions, church members, church officers, elders, ministers, and non-members who are employees attending Presbytery functions.

All allegations of sexual abuse, sexual harassment and sexual misconduct will be taken seriously. Every allegation will be received, investigated, and acted upon in accordance with the terms of these Policy and Procedures.

The accused person is always presumed not to have engaged in wrongdoing until having been found to have violated this Policy. In the context of this policy, no adverse finding will be made public or revealed against an accused person except on a need to know basis until a full investigation is completed and it has been determined that the complaint has been properly substantiated.

The protection of children is a high priority. The Child Protection Policy for Churches in Newark Presbytery should be referenced in matters related to the safety, welfare and protection of all children and youth participating in the activities and programs of the Church (See Child Protection Policy).

The issues of sexual and/or emotional abuse or neglect involving a minor, whether perceived or actual, need to be dealt with immediately, effectively, and with great discretion. New Jersey law requires that allegations of abuse or neglect of children be reported immediately to proper authorities. In Essex County that report is made to Department of Social Services at (800) 342-3720 or (518) 873-3404. Making the report is the responsibility of the Stated Clerk.

#### **Policy Statement and Purposes**

It is the policy of the Presbytery of Newark, Presbyterian Church (USA) that all clergy, directors of Christian Education (DCE), church members, church officers, non-member employees of Presbytery are to maintain the integrity of the ministerial, employment and professional relationships which reflect the high calling of membership in the Church of Jesus Christ.

Sexual misconduct is not only a violation of the principles set forth in Scripture, but also of the ministerial employment, employment or professional relationship expected in the Church, and is never permissible or acceptable.

Those covered by this policy include the following who stand in direct relationship to the Presbytery: Ministers, Christian Educators, Youth Directors, and Seminary Students, as well as church members, church officers, and nonmembers who serve as employees or volunteers under the supervision of the Presbytery or with church entities.

To the extent not covered herein, the Policy and Procedures on Sexual Misconduct adopted by the Presbytery is subject to the Newark Presbytery Harassment Policy (10.00 Vision Accountability Board Employee Handbook adopted January 29, 2018) and the policy of the General Assembly of the PC(USA).

### Definitions

A. *Accusation* is a statement or claim that an offense may have occurred. It must be put into writing by the alleged victim or accuser for it to be acted upon.

B. *Accused* is the term used to represent the person against whom a claim of sexual misconduct is made.

C. *Accuser* is the term used to represent the person claiming knowledge of sexual misconduct by a person covered by the 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 alleged victim may be the accuser whose information initiates the inquiry.

D. *Church*, when spelled with the first letter capitalized, refers to the Presbyterian Church (USA); when spelled with the first letter in lowercase, refers to local churches. The word “congregation” is used loosely for members and participants.

F. *Employee* refers to individuals who are hired or called to work for the Church, governing body, a local member church, or other institutions or entities formally related to the Church or one of its constituent bodies, for salary or other material compensation.

G. *Entity* is the term used to refer to any congregation, program, or office managed by a board, committee, council or other body whose membership is elected by a governing body. (See “Manual of the General Assembly,” Standing Rule E, I, c.)

H. *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; with children, elderly persons, those who are wholly or partially incapacitated; or counseling clients having emotional or personal problems.

I. *Inquiry* is the term used in the Rules of Discipline to determine whether charges should be filed based upon allegations of an offense received by a governing body (see Book of Order, D-10.0101, D-10.0102 and D-10.0103).

L. *Minister or Pastor* refers to one who is ordained to specific pastoral ministry within a congregation or to specialized ministry. This also refers to lay pastors.

M. *Reasonable Suspicion or A Reasonable Cause to Suspect* refers to a belief or opinion based on fact or circumstances that are sufficient for a prudent person to want to inquire further or to take protective action or to report to authorities.

N. *Response* is the action taken by Presbytery's Stated Clerk when a report of sexual misconduct is received. There are three (3) groups involved in a Response: the Response Team, the Investigating Committee and the Personnel Committee.

O. *Response Team* is a team of persons who the DPM and the Ministry Relationships Team Moderator may summon to respond swiftly and pastorally to an allegation of sexual misconduct by a person covered by this policy. See Section V of this policy.

P. *Secular Authorities* are the governmental bodies, whether city, county, state, or federal, who are given the responsibility to investigate and/or bring civil or criminal charges against individuals accused of sexual crimes or offenses against adults and children.

Q. *Secular Law* is the body of municipal, state, and federal laws and is 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 secular law.

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

S. *Sexual Harassment* as defined for this policy is as follows:

- 1) Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when 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; or rejection of such conduct is used as the basis for employment decisions affecting such an individual;
- 2) 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.
- 3) Other examples of sexual behavior that violates this policy include, but are not limited to, the following:
  - Making unwelcome sexual jokes, suggestions, innuendoes, epithets or slurs or other unwelcome remarks with sexual content or of a sexual nature or sexually graphic verbal comments;
  - Unwelcome or inappropriate touching, standing close to or blocking a path, or unwelcome sexual contact, such as inappropriate kissing or any offensive or abusive physical contact;
  - Unwelcome commentary about an individual's body (whether or not intended to be complimentary), sexual prowess or sexual deficiency;
  - Display of sexual visuals that insult, degrade, and/or sexually exploit men, women, or children;

- Computer or voicemail transmissions containing sexual content or jokes or derogatory statements.

T. *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.

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

- Child sexual abuse (see Newark Presbytery Child Protection Abuse Policy);
- Sexual harassment as defined above;
- Rape or sexual contact by force, threat, or intimidation;
- Sexual conduct (such as offensive, obsessive or suggestive language or behavior, unacceptable visual contact, unwelcome touching or fondling) that is injurious to the physical or emotional health of another;
- Sexual abuse of another person is any offense involving sexual conduct in relation to:
  - (a) any person under the age of 18 years or anyone over the age of 18 without the mental capacity to consent;
  - (b) any person when the conduct includes force, threat, coercion, intimidation, or misuse of office or position, (Book of Order, D-10.1401b), or
- Sexual Malfeasance.

V. *Misuse of technology*; use of technology that results in sexually harassing or abusing another person, including texting or emailing suggestive messages and images to persons with whom one has a 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 (see, Presbytery of Newark Child Protection Policy). There is never an expectation of personal privacy when using technological equipment owned by a church or church entity or within the context of ministry.

## **Standards of Conduct**

The ethical conduct of all who minister in the name of Jesus Christ is of vital importance to the Church because through these representatives is conveyed an understanding of God and the gospels' good news. Their manner of life should be a demonstration of the Christian gospel in the Church and the world (Book of Order, G-6.0106).

### Principles of Conduct:

The basic principles guiding this policy are as follows:

1. Sexual misconduct is a violation of the role of pastors, elders, employees, counselors, supervisors, teachers, and advisors of any kind who are called upon to exercise integrity, sensitivity, and caring in a trust relationship. The Church has a covenant to act in the

best interests of individuals in relationship to the Church which is broken when sexual misconduct occurs.

2. Sexual misconduct is a misuse of authority and power which breaches Christian ethical principles by misusing a trust relationship to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. If the parishioner, student, client, or employee initiates or invites sexual content in the relationship, it is the pastor's, counselor's, officer's or supervisor's responsibility 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 and therefore less able to act for their own welfare. It is antithetical to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world. It violates the mandate to protect the vulnerable from harm.

#### Victims and Families:

The Presbytery's Response Team will attempt to offer care to, and may advise and aid in securing discretionary treatment for, the alleged victims of sexual misconduct and their families.

It has sometimes been the case that the alleged victim or family is so angry and alienated from the church, that offers of help have been perceived as insincere or attempts at a cover-up. If the alleged victim or family at first refuses, the church should continue to offer help. The church's concern shall never be to protect itself but, rather, to seek the truth and to offer care to alleged victims and accused.

The Response Team shall assume in all cases in which a person has been determined to have been a victim that the person has been wounded by the experience. Feelings of guilt, shame, anger, mistrust, lowered self-esteem, unworthiness, and feelings of alienation from God, self, the religious community, and family are frequent injuries suffered by victims. It is important for the Response Team to make appropriate discretionary pastoral care available.

#### The Accused

The Presbytery may offer treatment and care for the accused and the family of the accused, as well as for alleged victims and families. If the accused is a minister or a certified Director of Christian Education, this is the responsibility of the Ministry Relations Team (See Book of Order, D- 10.0200). If a person is cleared of charges, it is important that the governing body or entity, when requested to do so by the accused, communicate the acquittal as fully as it deems appropriate.

## **Response Procedures**

### Receiving Initial Reports

Reports of sexual misconduct may occur in a variety of ways. All reports of Sexual Misconduct should be directed to the Stated Clerk of Newark Presbytery. Reports of sexual misconduct should never be taken lightly or disregarded and allowed to circulate without concern for the integrity and reputation of the accuser, the accused, and of the Church. Reports should be dealt with as matters of highest confidentiality, before and after they have been submitted to appropriate authorities as outlined below.

The first person to learn of an incident of sexual misconduct should not undertake an inquiry alone or question either the accuser or the accused. If the accuser is hesitant to talk to “higher authorities,” the person receiving the initial report has a special pastoral responsibility to encourage willingness to speak with higher authority, lest the Church be unable to respond because no one is able to give firsthand information.

### Reporting

Any individual governed by this Policy who receives information from any source of a potential violation of this Policy shall submit a written statement of the alleged offense to the Stated Clerk as soon as possible. (See D- 10.01 02b).

Upon receipt of a written statement of an alleged offense of a minister member of the Presbytery, the Stated Clerk, without undertaking further inquiry, shall then report that an offense has been alleged, without naming the accused or the nature of the alleged offense, and refer the statement immediately to the Sexual Misconduct Response Team and to the appropriate investigating committee (D-I0.0103).

Upon receipt of a written statement of an alleged offense of a non-minister member of the presbytery, the Stated Clerk shall refer the offense to the appropriate supervisory body in the Presbytery.

### Jurisdiction

The Presbytery’s response will vary according to the status of the accused.

Accused Covered by the Book of Order: *Ministers members of Presbytery* are subject to inquiry and discipline under the Book of Order, D-3.0101. The pastoral relationship of ministers serving congregations is subject to oversight by the Presbytery (Book of Order, G-3.0307).

Accused Covered by the Book of Order: *Ministers of a different Presbytery or those serving the synod or General Assembly entity holding ministerial status in Presbytery.* Accusations against such ministers involved or related to a Presbytery activity should be brought to the Stated Clerk of Presbytery of Newark for appropriate action. Such ministers will also be subject to the Rules of Discipline as members of a Presbytery.

Accused Covered by the Book of Order: *Church Members*. Accusations against members of the church involved or related to a Presbytery activity should be brought to the Stated Clerk of the Presbytery who shall refer the matter to the Clerk of Session of the accused's church. The session has original jurisdiction in disciplinary cases involving members of the church, each having jurisdiction only over its own members (Book of Order, D- 3.0101, D. 10.0101 and 10.0103 and Chapters 10 through 13 of the Book of Discipline).

Accused Employed by the Presbytery: If an allegation of sexual misconduct is made against a person employed by the Presbytery, the Stated Clerk or the VAB Moderator shall immediately submit the report to the Presbytery's Personnel Committee which shall follow the procedures in *The Employee Handbook*.

### **Sexual Misconduct Response Team**

In the event of an accusation of sexual misconduct in which the alleged victim is an adult over the age of eighteen (18), Newark Presbytery shall provide for a swift, confidential and pastoral response to the accuser, the accused, the alleged victim, the families of the alleged victim and the accused, the congregation and the co-workers of the parties involved. The respondents may be the DPM, the Ministry Relationships Team (MRT) Moderator and those appointed by the MRT, in consultation with the DPM and the Presbytery Moderator, to serve on a Sexual Misconduct Response Team. Response Team members shall be trained & have skills in responding to allegations of sexual misconduct and in recognizing and identifying the issues involved in sexual misconduct and sexual harassment. Response Team members shall also be familiar with the legal, administrative, and disciplinary procedures of Newark Presbytery and the PC(USA). Specific tasks of the Response Team may include listening sessions with the various parties involved, referrals for counseling and aftercare (with sensitivity to ability to pay for such services), accompaniment to meetings and explanation of administrative processes.

Any allegation of sexual misconduct in which the alleged victim is a child under the age of eighteen (18) years or an adult for whom abuse reporting is mandatory, such as developmentally disabled adults, shall be reported immediately to proper authorities in accordance with New Jersey state laws. When the alleged victim is a child under the age of eighteen (18) years, the procedures specified in the Newark Presbytery Child Protection Policy shall be followed. When the alleged victim is a developmentally disabled adult or other adult for whom abuse reporting is mandatory, the Response Team shall act under this policy.

### **Media Contact**

In order to minimize prejudice in any allegation yet to be decided, all inquiries from the media regarding an allegation of sexual misconduct under the jurisdiction of the Presbytery must be directed to the Stated Clerk.

The alleged victim, the accuser (if different from the alleged victim), the accused, advocates for the accused or the alleged victim, members of the Response Team, the church or employing entity, the VAB Moderator of Presbytery, or any others known to have information about the

allegations shall be informed that they are not to address questions from the media other than to refer the media to the Stated Clerk or a spokesperson designated by the Stated Clerk.

### **Statute of Limitations**

The ability of the Presbytery to respond promptly and justly to sexual misconduct is related in part to the opportunity to receive allegations and to gather evidence soon after the occurrence.

In accord with the Rules of Discipline (D-I0.0401) and the Sexual Misconduct Policy approved by the 1993 General Assembly, Presbyterian Church (USA), there is no statute of limitations for filing charges alleging sexual abuse.

### **Preventive Measures**

Educating and Training- Awareness - All minister members, Certified Educators, Inquirers, Candidates, Lay pastors, newly-ordained pastors, new pastors to the Presbytery, and professional staff members of Presbytery must attend Boundary Awareness Training as provided by Presbytery and sign the acknowledgement of having been trained (see Appendix 'A'.)

All minister members, Certified Educators, Inquirers, Candidates, Lay pastors, newly-ordained pastors, new pastors to the Presbytery, and professional staff members of Presbytery will be required to complete Appendix B "Sexual Misconduct Self Certification."

All minister members, Certified Educators, Inquirers, Candidates, Lay pastors, newly-ordained pastors, new pastors to the Presbytery, and professional staff members of Presbytery will be given a copy of this Sexual Misconduct Policy and will be required to sign a written acknowledgment (see Appendix 'C') indicating that they have received a copy. This acknowledgment will be kept on file.

All ministers and Certified Educators seeking new calls within Presbytery shall complete the Personal Information Form currently being distributed by the Call Referral Services of the Presbyterian Church (USA), including Part IV, Sexual Misconduct Information, or its successor form.

All Inquirers, Candidates, ministers, Certified Educators and persons being considered for call/employment by the Presbytery or for PC (USA) churches within the bounds of the Presbytery shall sign a Release (see Appendix 'D') authorizing a background check.

This policy shall be distributed in the discretion of the Stated Clerk periodically at Stated Meetings of Presbytery.



## APPENDIX A

Continuing Education on Boundary Awareness Training is offered by the Presbytery and is required once every three (3) years for all pastors, DCEs and other professional employees of the Presbytery and its churches.

\_\_\_\_\_ I have attended a Boundary Awareness Training continuing education event offered by the Presbytery of \_\_\_\_\_ in the year 20\_\_\_\_.

\_\_\_\_\_ I will attend a Boundary Awareness Training continuing education event offered by Presbytery in the next three (3) years.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## APPENDIX B

### Sexual Misconduct Self Certification

*The following information related to sexual misconduct was mandated by the Sexual Misconduct Policy and Its Procedures adopted by the 203rd General Assembly (1991), was revised by the 205th General Assembly (1993), and is identical to that requested in the standard Personal Information Form (PIF).*

Please check one of the following:

\_\_\_ I certify below that no civil, criminal, ecclesiastical complaint has ever been sustained\* or is pending\* against me for sexual misconduct; and I have never resigned or been terminated from a position for reasons related to sexual misconduct.

\_\_\_ I am unable to make the above certification. I offer, instead, the following description of the complaint, termination, or the outcome of the situation with explanatory comments.

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Signature

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Date

#### \*Sustained

- In a criminal court, "sustained" means that there has been a guilty plea, a guilty verdict or a plea bargain.
- In a civil court, "sustained" means that there has been a judgment against the defendant.
- In an ecclesiastical case, "sustained" means that there has been a guilty plea and censure imposed, or finding of guilty with censure imposed, or an Alternative Form of Resolution Agreement approved by a permanent judicial commission in the Presbyterian Church (USA) or an equivalent body of another church.

#### \* Pending

- In a criminal court, "pending" means a criminal charge before a grand jury, in the process of being prosecuted, or in a case which there is not yet a verdict.
- In a civil court, "pending" means a case in which there has not been a decision or judgment,
- In an ecclesiastical case, "pending" means an investigating committee is inquiring into an allegation or charges have been filed but have not been decided by a permanent judicial commission; or an allegation or charges are in an equivalent state or process in a church other than the PC (USA). (The following is taken from definitions in the General Assembly Sexual Misconduct Policy and its Procedures, Pg.13)

## APPENDIX C

### Acknowledgement of Receipt of the Presbytery of Newark Sexual Misconduct Policy

I have received a complete copy of the *Policy and Procedures on Sexual Misconduct of the Presbytery of Newark* and have had an opportunity to review them. I understand the information contained the *Policy and Procedure*.

I agree to comply with these policies and acknowledge that my failure to comply with these policies may result in disciplinary action. Any change to this policy will be made in writing and issued by the Stated Clerk of the Presbytery of Newark.

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Signature

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Date

## APPENDIX D

### Background Investigation Consent

I, \_\_\_\_\_ (complete name), hereby authorize the Presbytery of Newark and/or its agents to make an independent investigation of my background (criminal or police records, including those maintained by both public and private organizations and all public records; verification of my social security number; and credit check for employment) for the purpose of confirming the information contained on my application for service or Personal Information Form (PIF) and/or obtaining other information, which may be material to my qualifications now, and if applicable, during the tenure of my work or employment within the Presbytery of Newark of the Presbyterian Church (U.S.A.).

I release the Presbytery of Newark and/or its agents and any person or entity, which provides information pursuant to this authorization, from any and all liabilities, claims, or lawsuits in regards to the information obtained from any and all of the above referenced sources used.

The following is my true and complete legal name, and all information is true and correct to the best of my knowledge.

#### Please print all information legibly

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Maiden name or other names used

\_\_\_\_\_  
Present street address

\_\_\_\_\_  
How long?

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
Former street address

\_\_\_\_\_  
How long?

\_\_\_\_\_  
City/State/Zip Code

\_\_\_\_\_  
Date of birth

\_\_\_\_\_  
Social security #

\_\_\_\_\_  
Driver's license #

\_\_\_\_\_  
State of license

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## APPENDIX E

This exhibit provides the Response Team with a sample Report of Suspected Sexual Misconduct. It provides space for the names, addresses, and telephone numbers of victims, the accused, possible witnesses, and others involved. It also provides space for a description of the offending behavior as well as other pertinent information.

This form or a revision of it should be filed with the Stated Clerk. (See section on Response Team Reporting in this policy and its procedures.)

### Report of Suspected Sexual Misconduct

#### Reported by

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

Date of Report: \_\_\_\_\_

#### Person suspected of misconduct

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

#### Other person(s) involved (witness or victims)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Age: \_\_\_\_\_

Sex: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, and Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_

## Report of Suspected Sexual Misconduct

Describe incident(s) of suspected sexual misconduct, including date(s), time(s), and location(s):

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

Identify eyewitnesses to the incident, including names, addresses, and telephone numbers, where available:

[illegible]