

Sexual Misconduct Policy

Adopted November 1993 and Revised June 1998

Revised Policy and Procedure on Sexual Misconduct of the Presbytery of the Cascades

POLICY

It is the policy of the Presbytery of the Cascades that all church professionals, church officers, church members, nonmember employees and volunteers of governing bodies and entities of the presbytery are to maintain integrity of ministerial, employment, professional, and ecclesiastical relationships at all times. Sexual contact or sexualized behavior with another person while in ministerial, employment, professional, or ecclesiastical relationship, whether or not consent is given or implied, is never permitted.

PURPOSE

The purpose of this policy is to make explicit the presbytery's opposition to oppressive or degrading environments in employment and other church relationships, to provide a due process for the determination of facts in cases of allegations of violation of the policy, and to provide for the imposition of appropriate remedies in cases of violation. Within the ecclesiastical context, it makes explicit the duty of the presbytery to provide or provide for pastoral care of persons who may be affected by either a violation or an allegation of violation of the policy.

DEFINITIONS

Sexual misconduct may include, but is not necessarily limited to:

1. Sexual contact or sexualize behavior with another person while in ministerial, employment, professional, or ecclesiastical relationship, whether or not consensual;
2. Sexual conduct which is injurious to the physical or emotional health of another, such as adultery, pornography, offensive, obscene, or suggestive language, seductive behavior, or inappropriate/unwelcome physical or visual contact;
3. Sexual harassment, which includes sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature in which submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or church-relationship status or in which submission to or rejection of such conduct by an individual affects decision regarding employment or membership-status decisions of an individual, or in which such conduct has the purpose or effect of unreasonably interfering with an individual's performance by creating an intimidating, hostile, or offensive working or church-relationship environment; or
4. Sexual misconduct includes also violation of the criminal laws of the state in which the conduct occurred, including rape or sexual contact by force, threat, or intimidation, or any

other heinous sexual crimes including any contact or interaction between a child and an adult when the child is being exploited for sexual gratification, whether the behavior does or does not involve touching; such sexual behavior between a child and an adult is always considered forced whether or not consented to by the child.

Sexual misconduct is a breach of Christian ethical principles by the misuse of trust, authority, or power relationship to gain advantage over another for personal pleasure in an abusive, exploitative, or unjust manner. In the case of church professionals (whether they are in pastoral, counseling, or other such relationships), no personal sexual relationship, either public or private, is permitted with anyone with whom the individual has professional relationship. It is always the responsibility of a church officer or church worker to maintain appropriate sexual boundaries and limitations to insure that sexual misconduct does not occur.

It is further the policy of the Presbytery of the Cascades that each particular church (congregation) and entity operating within and/or under the authority of the Presbytery of the Cascades adopt a policy prohibiting sexual misconduct by all persons, whether employees or volunteers, under the authority of the session of a particular church or the governing body of any other church-related entity. Procedures for action in the case of a violation of any policy adopted is to be made explicit. Notice of the policy and procedure adopted is to be made public within the particular church or entity and a copy of the document adopted is to be provided to the Presbytery of the Cascades.

APPLICATION

This policy applies to all members of presbytery (ordained ministers), all persons on rolls of presbytery (commissioned church workers, inquirers, candidates), all employees of presbytery (whether ordained to church office or not), and all who serve in the work or function on behalf of presbytery as volunteers. This policy and procedure does not apply to persons unless they are either members of the Presbytery of the Cascades, on the rolls of presbytery, or serve as employees or as specific agents of the presbytery.

REFERENCES

Because the presbytery has strong policy opposing sexual misconduct, finalist candidates for any position within the presbytery are to be checked. A statement from a potential employee or volunteer regarding any civil, criminal, or ecclesiastical complaint and/or judgment regarding sexual misconduct and its disposition will be required from every applicant for employment or volunteer service. The presbytery may make any inquiries as may be judged prudent and necessary to assess the suitability of a candidate for service in or on behalf of the presbytery.

REPORTING PROCEDURE WHEN SEXUAL MISCONDUCT IS DISCOVERED OR SUSPECTED

In cases in which there is allegation of offense involving sexual conduct in relation to any person under the age of eighteen years or anyone over the age of eighteen years without the mental capacity to consent; or any person when the conduct includes force, threat, coercion, intimidation, or misuse of office or position the only time limit for filing charges shall be one year from the date the investigating committee was formed (G-10.0401).

Any person who has reasonable belief that a violation of the policy has occurred by a person to whom the policy is applicable is required to make report thereof in a prompt and timely manner to the stated clerk of the Presbytery of the Cascades, any other member of the elected professional staff of the Presbytery of the Cascades, or a chair of a Committee on Ministry of the Presbytery of the Cascades. Failure to provide notification of reasonable belief of violation of this policy is itself a violation of this policy. In order that confidentiality be maintained and that the procedures of the

Presbytery of the Cascades not be compromised, any person who has reasonable belief that a violation of the policy has occurred is to make report to the Presbytery of the Cascades and/or civil authorities as may be required by statute, but is not to propagate rumor by other reporting of hearsay, allegations, or suspicions. It is the sole responsibility of the Presbytery of the Cascades to exercise ecclesiastical jurisdiction with regard to its policy.

SUBSEQUENT REPORTING

Any person notified of an alleged violation is to record the names of the accused and accuser, together with a brief description of the alleged offense, in order that the allegation be forwarded to the Office of the Stated clerk of the Presbytery of the Cascades for the initiation of appropriate procedures described in this document and in accord with the Rules of Discipline of the Presbyterian Church (USA). The clerk must be provided sufficient information to cause a reasonable person to conclude that an inquiry is needed to either censure or clear the accused of allegations. The clerk need not be personally persuaded of the truth of the allegations nor need the clerk see all of the supporting evidence available before instituting procedures.

When violation of criminal statute has occurred (as in the case of child abuse) or when otherwise required by civil law, any person who has direct personal knowledge of such violation is to make report to the appropriate governmental agency in addition to making report to the Office of the Stated Clerk.

PROCEDURE

When report of an alleged violation of the presbytery's policy on sexual misconduct is received, the stated clerk shall initiate the presbytery's procedures for the establishment of an investigating committee under the provisions of Chapter D-10 of the Rules of Discipline of the *Book of Order* of the Presbyterian Church (USA) and/or any personnel policies of other procedures in effect within the Presbytery of the Cascades.

In addition to initiating procedure preliminary to a disciplinary case, the stated clerk shall inform the appropriate regional Committee on Ministry of the Presbytery of the Cascades of the fact that an offense has been alleged. As appropriate or required, notification of insurance carriers, civil authorities, or local employing or governing bodies, shall be made by the stated clerk. The appropriate regional Committee on Ministry may, when it is deemed necessary for the protection of persons or institutions, initiate appropriate measures for the care and/or protection of any and all persons and institutions which have been or might be affected by the alleged misconduct, including local employing or governing bodies. The Committee on Ministry having jurisdiction may provide, either by itself or through a special committee it may establish, such services as 1) interpretation of the presbytery's policy and procedure, judicial process, and needs for pastoral care; 2) recommendation of appropriate resources for specialized services (interim pastoral care, counseling, conflict resolution, personal advocacy, etc.) and 3) provision of appropriate pastoral care for the accused, the accuser, and other persons or institutions affected by the allegation of sexual misconduct.

Should the accused acknowledge the substantial truth of the accuser's charges or should there be evidence which might make such actions prudent, the appropriate regional Committee on Ministry may impose any of the following measures:

In the case of the accused being in a pastoral position:

- a. the immediate restriction of the pastoral activities of the accused;
- b. the immediate imposition of supervision for the accused;
- c. the immediate temporary suspension of the accused from his/her pastoral duties with pay and without prejudice (in which case the session of the particular church with which the accused has

pastoral relationship shall be advised that presbytery will provide adequate services during the time of the temporary suspension); or

In the case of the accused being in a non-pastoral position:

- a. the transfer of the accused to inactive status on the roll of the presbytery until there is resolution of the matter, and
- b. the notification of the accused's employer that such action has been taken.

The responsibility for the Presbytery of the Cascades with regard to accusations of violation of its policy and procedures on sexual misconduct are to ensure that an effective, caring, and expeditious response is made to all persons, institutions, and entities which may be affected by either a violation of professional ethics or the allegation of a violation. In all cases, all persons shall be treated with respect, personal integrity shall be presumed, and statements shall be taken seriously. In the pastoral care provided by the appropriate regional Committee on Ministry of the Presbytery of the Cascades, there shall be no effort made to determine the guilt or innocence of any parties. The determination of guilt or innocence is the responsibility of the judicial process through the work of an Investigating Committee and, if charges be brought, by a disciplinary case conducted by a session or by a permanent judicial commission. The work of the appropriate regional Committee on Ministry shall be to provide to persons, institutions, and entities such pastoral care and support as may be

needed to maintain both personal and corporate integrity and effectiveness during the time of the work of an Investigating Committee and until such time as there is resolution of the matter by judicial process, the Committee on Ministry shall supervise and manage ministries of care, oversight, interpretation, reconciliation, or any other services provided by or through the Presbytery of the Cascades to restore a congregation or entity to effective function.

THE INVESTIGATING COMMITTEE

Under the provisions of Chapter D-10 of the Rules of Discipline of the *Book of Order* of the Presbyterian Church (USA), it shall be the responsibility of an Investigating Committee to conduct investigation of allegations received, including the gathering of any and all information which may be deemed necessary and appropriate for determination of essential truths of the allegations. The initial work of the Investigating Committee shall be purely investigatory and ordinarily shall be not longer than 60 days in length. At the end of 60 days, the Investigating Committee shall report to the stated clerk of presbytery whether there is sufficient evidence or suspicion to warrant full prosecution of the accused before a Permanent Judicial Commission or shall request additional time for to complete its investigation. If additional time for investigation is needed, an extension of not more than an additional 30-day period may be granted by approval from both the stated clerk and the Moderator of presbytery.

If the opinion of the Investigating Committee is that there is not sufficient evidence or suspicion to warrant full prosecution of the accused before the Permanent Judicial Commission, notification of that determination shall be provided to the accuser, the accused, the presbytery through the stated clerk, and, as deemed prudent and necessary under the circumstances, to any persons, institutions, or entities which might have been contacted in the course of the Investigating Committee's work. The Investigating Committee may suggest remedies other than ecclesiastical discipline such as arbitration, negotiation or mediation, and should advise that failure of one process may lead to another.

The decision of the Investigating Committee with regard to whether to proceed into judicial process under the terms of the Rules of Discipline shall not limit the right or opportunity of an accuser to bring charges in either civil or other process. If, however, civil or criminal charges have been filed, the work of ecclesiastical judicial process may be suspended until there is resolution of complaints filed under civil law. If civil or criminal charges are in the process of adjudication, however, the pastoral care of the presbytery through its Committee on Ministry shall continue and need not be delayed pending resolution of civil proceedings.

ROLES OF STAFF

The role of the stated clerk is limited to receiving complaints and serving as consultant/resource to the ecclesiastical judicial process. The role of other members of presbytery/Synod staff is limited to providing appropriate support and counsel to the appropriate regional Committee on Ministry, but is not intended to include responsibility for either counsel or management except at the direction of that Committee on Ministry. The role of staff is to provide a channel for communication and to describe existing process; members of the presbytery staff are not to adjudicate or to provide advice and counsel other than as directed by the presbytery through either the appropriate regional Committee on Ministry or through judicial process.

INCLUSION BY REFERENCE

By reference, the document entitled "Sexual Misconduct Policy and its Procedures" as adopted by the 205th General Assembly of the Presbyterian Church (USA) in June of 1993 is incorporated as a resource for use by the Presbytery of the Cascades, particularly with regard to definitions, theological expressions, and employment forms. Although the procedures described in that document may differ from those of the Policy and Procedure on Sexual Misconduct of the Presbytery of the Cascades, they provide suggestions and guidance to aid in the implementation of the presbytery policy.