

D. SEXUAL MISCONDUCT POLICY

I. PREAMBLE

This sexual misconduct policy is, of necessity, limited to those persons who are either continuing members of the Presbytery, employees (current and future), elected officers, members of various committees, or volunteers of the Presbytery of the Pacific. The Presbytery asserts and believes that high standards of ethical and moral conduct, as well as appropriate sexual behavior, are expected at all times of all persons who profess faith in Jesus Christ as Lord. Sexual misconduct on the part of any Christian at any time is a sinful act in violation of faithful living. However, this specific policy applies only to those situations in which the person is accountable to the Presbytery.

II. THEOLOGICAL PREMISE

Do not be conformed to this world, but be transformed by the renewing of your minds, so that you may discern what is the will of God - what is good and acceptable and perfect. Romans 12:2 NRSV

The centerpiece of this Sexual Misconduct Policy is that all people - men, women, and children - are created by God, and therefore have dignity and worth. As human beings, and especially as Christians, we are to respect one another in body, mind, and spirit, treating others in the manner we wish to be treated. This respect maintains boundaries between individuals; boundaries which, when linked but not crossed, create Christian community. Under the guidance of God's Spirit, such community encourages trust, openness, and compassion, as well as accountability and responsibility.

Leadership within the Christian community, whether clergy or lay, is a sacred trust to be exercised with faithfulness and love. Sexual misconduct by Christian leaders is a violation of this trust, betraying its victim(s), damaging the abuser, and threatening the credibility of the church itself.

Because of the power (inherent or conferred) associated with positions of leadership, the responsibility for maintaining appropriate boundaries rests with those trusted as leaders. This responsibility is rooted in both Christian and professional ethics (for clergy), and should be taken seriously. Those who are called to tend Christ's flock should conduct themselves in a manner which nurtures and protects the vulnerable. Consequently, the "good of the church" can never be served by

overlooking an abuse of power and trust such as that involved in sexual misconduct.

Above all else, an inquiry into an allegation of sexual misconduct must seek to determine the truth, for only truth can give birth to justice. The goal of justice - the goal of this process - is the restoration of Christian community, the healing of broken boundaries and injured persons.

III. CLARIFICATION OF TERMS

A. WHO IS COVERED BY THIS POLICY?

The Presbytery of the Pacific reaffirms the principle that relationships in the Christian community must be built on respect and trust. Therefore, all persons within or related to the Presbytery or its congregations have a right to be free of sexual misconduct by any member of the Presbytery. This policy statement applies to all clergy, employees, volunteers, members of various committees or officers of the Presbytery of the Pacific. All congregations or other entities related to the Presbyterian Church (USA) within the Presbytery should be aware of this policy and develop policies of their own.

“To be a pastor is to be entrusted with a sacred responsibility. Not only is the pastoral office a position of great trust and responsibility, it is also, by virtue of the trust persons place in the office and the person of the pastor, a position of great authority and power over others. Persons in pastoral roles may betray the trust placed in them by misusing power in many ways.” (Is Nothing Sacred, Marie Fortune)

We recognize that there are many ways trust can be violated and believe that pastors must be and act in appropriate ways and roles to avoid any propensity toward such misuse. The following statement on dating relationships helps define guidelines for pastors to ensure that these roles are appropriately carried out.

The intricacies of dating relationships are manifold and require some specific guidelines. Ordinarily, it is not appropriate for a minister to date a member/congregant within his/her own parish. The potential for issues of power and subsequent hurt and abuse make this a necessity. Dating a congregant may put the member's faith at risk - in that, if/when a dating relationship ends, the member who has been dating the minister is left in the position of having to process faith/life issues in the same church community. Therefore, there is a propensity to leave the church.

B. WHAT IS SEXUAL MISCONDUCT?

Sexual misconduct is a form of encounter which is dehumanizing for all persons involved. It involves an unwarranted misuse of power or manipulation (as defined below) on the part of one person against another. **ORDAINED MINISTERS AND OTHER LEADERS BEAR SPECIAL RESPONSIBILITY FOR MAINTAINING APPROPRIATE SEXUAL BOUNDARIES.**

Sexual misconduct within the scope of this policy also includes: (1) any unwelcome sexual contact between a church leader and another person; (2) any conduct which violates the marital relationship of either party.

Sexual misconduct is the comprehensive term used in this policy to include:

1. **Sexual Abuse/Malfeasance** is behavior which may be considered a crime of violence, under civil law:
 - a. Punishing or threatening to punish a person for rejecting sexual attention, requests, and/or demands;
 - b. Coercing, or attempting to coerce a person into a sexual and/or dating relationship;
 - c. Using spiritual or appointed authority to coerce, or the attempt to coerce, persuade or mislead a person to enter into sexual behavior;
 - d. Basing employment, promotion, pay increases or training opportunities on a person's acceptance or rejection of sexual advances;
 - e. Violating a position of trust to engage in sexual contact, involving a person who is subject to the implicit trust relationship which the position conveys (e.g., ministers, pastoral counselors, youth leaders, church school teachers, child care workers, etc.)
 - f. Using any sexual contact by force, threat or physical intimidation, including but not limited to rape or attempted rape.

2. **Sexual Harassment** is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, volunteer services, pastoral care or counseling;
 - b. Such conduct is made a basis for employment, promotion, pay increases or training opportunities on a person's acceptance or rejection of sexual advances;
 - c. Such conduct has the purpose or effect of interfering with an individual's work or volunteer performance by creating an intimidating, hostile or offensive working, pastoral care or counseling environment;
 - d. Such verbal or physical conduct may include risqué jokes, innuendos, insults, ingratiating and over-solicitous behavior including sexually inappropriate visits and phone calls, requests for sexual favors, unwelcomed touching, display of sexual visual images, seductions and fondling.
3. **Child Sexual Abuse** shall include, but is not limited to, any contact or interaction between a child and an adult when the child is being used for the sexual stimulation of the adult or a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult is always considered forced whether or not consented to by the child. In California, a person is considered a child until age 16. Any or all of the following behaviors must be reported to civil authorities in accordance with state law:
- a. Inappropriate sexual interaction between an adult and a child, whether verbal or physical;
 - b. Sexual contact by force, threat or physical intimidation, including but not limited to rape or attempted rape;
 - c. Contact or interaction between a child and an adult when the child is being used for the sexual stimulation of the adult person or a third party.

C. WHO ARE THE PEOPLE INVOLVED IN A SITUATION OF ALLEGED SEXUAL MISCONDUCT?

A number of people are involved in any allegation of sexual misconduct. The several roles of involved persons may include:

1. **ACCUSED** - the person against whom an allegation of sexual misconduct is made.
2. **ACCUSER** - the person claiming knowledge of sexual misconduct by a person covered by this policy. The accuser may or may not be the aggrieved person of sexual misconduct. A person such as family member, friend, or colleague of the aggrieved person may be the accuser whose information initiates an inquiry.
3. **ADVOCATE** - the person chosen by the accused, the accuser or the aggrieved person to accompany him or her at any or all stages of the process. In this policy, an advocate does not denote legal representation. An advocate may be a colleague, friend, family members, counselor, etc.
4. **LEGAL REPRESENTATIVES** may be retained by any of the parties at any point during the process.
5. **AGGRIEVED PERSON** - the person alleged to have been injured by the sexual misconduct of a person covered by this policy.
6. **MANDATED REPORTER** - the person who, under California law, is required to report to the proper civil authorities any and all suspected incidents of child abuse that come to their attention. Teachers, therapists, and educational psychologists are mandated reporters.
7. **INTERVENTION COMMITTEE** - the standing subcommittee of the Committee on Ministry with responsibility for receiving allegations of sexual misconduct, determining the appropriate means of responding to the allegation(s), and ensuring that the allegation is dealt with in a fair and timely manner.
8. **SPECIAL INVESTIGATING COMMITTEE** - the committee appointed by Presbytery as provided for in D-10.0202 of the Book of Order to make an inquiry to determine whether disciplinary charges should be filed against the accused.
9. **OTHER PRESBYTERY GROUPS** - that, because of their responsibilities within Presbytery, the Committee on Ministry, the Committee on Preparation for Ministry, and

the Personnel Committee of Presbytery may need to be involved during the process. In cases involving employees, the provisions of the personnel policy will be followed. For employees who are members of Presbytery, both personnel policy provisions and disciplinary process will apply.

IV. PRINCIPLES

A. GENERAL PRINCIPLES

- The “good of the church” can never be served by overlooking an abuse of power and betrayal of trust;
- Sexual misconduct is always wrong, violating a sacred trust and may be a prosecutable crime under legal statute;
- Charges of sexual misconduct must be dealt with swiftly, fairly, and with compassion for all parties involved.

Further, the Presbytery’s response to allegations of sexual misconduct may include:

- Inquiry into facts and circumstances;
- Possible disciplinary action (administrative, judicial, or both);
- Pastoral care for aggrieved persons and their families and others;
- Pastoral care and rehabilitation, if needed, for those accused and care for their families; and
- Pastoral care for congregations, the Presbytery and other employing agencies.

The Presbytery’s response will be made with concern for both:

- **Confidentiality.** Respect for persons’ privacy, reputations, and records is highly necessary on the part of all those involved in the process and of the Presbytery at large. Some incidents may also prove to involve church and/or secular legal processes. Confidentiality is governed by the principle of “need to know”, unlike “secrecy” which means that no information will be provided to anyone. Consequently, information about any allegation of sexual misconduct received by the Presbytery and the process of

resolving the allegation shall be provided only to those specific members of Presbytery or a Session or congregation who have a responsibility which creates a need to know. Concern for confidentiality does not justify denying or “hushing up” appropriate information and responses. However, specifics of the allegation shall be governed by rules of privacy and shall be available only to those responsible for the resolution of the allegation. In addition, inquiries from media are a consideration. All inquiries from the media regarding any alleged incident of sexual misconduct shall be referred to the Stated Clerk, General Presbyter and/or designated representative(s) from a local church session for communication and coordination.

- **Truthfulness.** Information and responses may be shared as appropriate with the involved parties, with the Presbytery and its committees, and with sessions. Given the need for fairness and compassion, falsifying or withholding information by anyone making an allegation of misconduct of any accused person responding to allegations of misconduct is unethical. If charges are found to be brought maliciously or without grounds, the accuser may be identified and further action taken.

B. OPERATIONAL PRINCIPLES

The Presbytery will observe the following operational principles in implementing this sexual misconduct policy:

- **Advocacy.** The parties directly involved in the allegation - the accuser, the aggrieved person, and the accused may at any and all points have an advocate with them when meeting with the Intervention Committee or the Ad-Hoc Subcommittee. The advocate is invited by the party to the allegation; he or she is not appointed by the Presbytery or any committee.
- **Representation.** At least two members of the Intervention Committee will be present when meeting with the aggrieved person or the accused. Such consultations shall always include at least one committee or team member who is of the same gender as the person being interviewed.
- **Files and Record Keeping.** Every employee and clergy member of the Presbytery has a personnel file. In addition, a “secure file” will be established at the time of an allegation. This will include all records of the Intervention Committee’s deliberations and minutes. Copies of documents, including allegations, shall not be taken from meetings but shall be returned to secure files.

- **Statute of Limitations.** As provided for in D-10.0401 of the Book of Order, the statute of limitations, for claims to the Presbytery, is three years from the time of the commission of the alleged offense except for cases of alleged sexual misconduct.

There are special problems related to discovery and recognition of various forms of sexual misconduct. Child Sexual Abuse may not be remembered until the victim of abuse reaches adulthood. Recognition of abuse and willingness to come forward as an adult victim may also be delayed many years. Congruent with the Book of Order, this policy recognizes no statute of limitations as to when sexual misconduct may be reported or acted upon. However, in D-10.0401(a) there is a limitation once an investigating committee is formed (one year after investigating committee is formed).

- **Administrative Leave.** This policy recognizes that when reasonable suspicion has been established and a formal Special Investigating Committee has begun, a minister member may be removed temporarily from the situation in which an allegation has arisen in order to permit an unbiased investigation to proceed. Such administrative leave shall be without prejudice to the ultimate disposal of the allegation and salary shall continue during the leave. The Presbytery will provide appropriate assistance in securing pulpit supply and pastoral care during the administrative leave. The Presbytery, when necessary, through the Committee on Ministry, may need to provide financial resources for this assistance.
- **Reasonable Suspicion.** This is a subjective criterion that refers to a belief or opinion based on facts and/or circumstances which are sufficient for a prudent person to want to inquire further, to take protective action, or report to authorities.

(Approved September 16, 1997)

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