

APPENDIX H

The Presbytery of Philadelphia Presbyterian Church (USA) POLICY ON SEXUAL MISCONDUCT Approved January 2011

I. INTRODUCTION

The Presbytery of Philadelphia, 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 Ministers of the Word and Sacrament, Commissioned Lay Pastors, Certified Christian Educators, Presbytery staff, ongoing volunteers serving at the request of the Presbytery, and those under care of Presbytery, all of whom are hereafter referred to as “ministers.” 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. The purpose of this policy is to supplement that Code of Ethics by

- 1) Defining sexual misconduct by ministers;
- 2) Providing policy for a.) the enforcement of ethical behavior consistent with the Reformed tradition and secular law, and b.) the prevention of sexual misconduct;
- 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, 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 engages, with or without consent, in a sexual act or sexual contact with another person to whom s/he owes 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 contact where there is a professional relationship, including consensual physical relationships and when an inherent imbalance of power undermines consent.
 - c. Any other act defined as “sexual abuse” (or equivalent) under the criminal laws, as they may exist from time to time, of the jurisdiction where the act occurs.
2. Rape or sexual contact by force, threat or intimidation.
3. Sexual harassment or 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, including sexual bargaining relating to the conditions of a person’s employment or participation.
4. 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.

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 confession, 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 Presbytery of Philadelphia Code of Ethics for Clergy and other Church Professionals.
2. All ministers shall satisfy the requirements of the Sexual Ethics Training Plan as approved by the Presbytery on January 26, 2010. Training will be offered by the Presbytery or another source satisfactory to the Committee on Ministry 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. As a help to people struggling with boundary issues, and 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 relationship which could develop into a long-term commitment (“dating”), governing/authoritative bodies concerned with the individuals (most likely, the session and the Committee on Ministry), and any individual supervisor, shall be consulted. Such consultations shall result in recommendations on any delay before a dating relationship begins and shall determine that the individuals concerned have other pastoral care. In addition, such consultations shall resume in the event that dating ceases and when there is a desire to restore the pastoral relationship.
6. The conviction of any Minister of Word and Sacrament, Certified Lay Pastor, or Certified Christian Educator of sexual misconduct may be grounds for the revocation of ordination/certification as per the Book of Order. No candidate or inquirer convicted of the same will be permitted to continue in the preparation process without action by the Restoration Committee. No one convicted by either a civil or ecclesiastical court of sexual misconduct will be considered for any position within the Presbytery or its churches without action by the Restoration Committee.
7. Concealing or failing to report sexual misconduct tends to perpetuate misconduct. All persons governed by this policy who know of, or reasonably suspect, sexual misconduct on the part of individuals governed by this policy have a duty to report such sexual misconduct to the Stated Clerk of the Presbytery, according to the procedural requirements of this policy and the Book of Order [D-10.0000], when such information is gained outside of a confidential communication as defined in G-6.0204. Ministers also have a duty to report sexual misconduct to civil authorities where required by law, when (1) such information is gained outside of a confidential communication as defined in G-6.0204a; or (2) she or he reasonably believes that there is risk of future physical harm or abuse (G-6.0204b).
8. As outlined in the Book of Order, any complaint of violation of this policy shall be directed to the Stated Clerk of the Presbytery who receives reports and refers said complaint.

9. The Presbytery shall maintain and train a standing Response Coordinating Team (RCT). The purpose of the RCT is to assure that the Presbytery provides pastoral care for alleged victim(s), offender(s), affected persons and families, and any affected congregation.
10. The Presbytery shall maintain and train a pool of Presbyterians in good standing (the Response Coordinating Pool) from whom may be drawn representatives to carry out the duties necessary to fulfill the work of the judicial and pastoral care processes after the filing of a complaint of sexual misconduct.

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 s/he has received it and agrees to comply. A copy of this policy shall be maintained on the Presbytery of Philadelphia website, and signed copies of acknowledgement kept on file by the Stated Clerk of the Presbytery.
- b. Within twelve months of having received this policy, all ministers shall be trained by the Committee on Ministry on the nature and prevention of sexual misconduct, or in the case of a candidate under care, by the Committee on the Preparation for Ministry. 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. Continuing members of the Presbytery shall be required to take refresher training no less than once in every 5 years.
- c. Ministers shall provide written acknowledgment of receipt of this policy.
- d. The Presbytery, through the Response Coordinating Team, 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 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 shall report findings to the Committee on Ministry. 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 Committee on Ministry's clearance process, all incoming clergy shall be required to sign a written consent and release form authorizing both a Criminal Background Check and a Child Abuse Background Check. These shall be performed by an independent agency that will access the misdemeanor and felony conviction records of courts in the United States. Any related costs are borne by the calling organization as part of its search process.
- ii. The Executive Presbyter and/or designee and the Stated Clerk 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. The use the Presbytery makes of the criminal record background report will be determined on a case by case basis. The Executive Presbyter and/or designee and the Committee on Ministry will counsel both with the candidate and the calling organization where appropriate.
- iii. The Executive Presbyter and/or designee and the Stated Clerk 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 Presbytery Executive Staff.
- 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 Committee on Ministry, the Investigating Committee and the Permanent Judicial Commission are outlined in G-11.0502, 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 Investigating Committee (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 the Response Coordinating Team (RCT) 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 Chairperson of the Response Coordinating Team in order that the pastoral care process may be initiated.

- vii. If the Stated Clerk or Executive Presbyter determines that the complaint is the subject of civil or criminal litigation, they shall consult legal counsel for the Presbytery.
- viii. Concerns about the provision of any 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 Presbytery or designee of all concerns received so that 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 and/or designee, who shall confer with the Stated Clerk and legal counsel for the Presbytery prior to responding to the media.

d. The Judicial Process

- i. Through the Response Coordinating Team, the Presbytery shall train all persons assigned to participate in the judicial process to function appropriately in their assigned tasks.
- ii. Any Investigating Committee shall have 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 and the Presbytery's Administrative Leave Policy in effect at the time the initial allegation is made.
- 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 Permanent Judicial Commission (PJC) to review the procedures of the Investigating Committee (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.

- 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-11.0701). 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 given 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. When a minister is found not guilty by the PJC, vindication will be pursued vigorously by the Presbytery as outlined in D-9.0000.
- xi. 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.
- xii. The Stated Clerk's annual report to Presbytery shall include statistics on 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-12.0201).
- ii. The Executive Presbyter and/or designee, and the Moderators of COM and RCT shall select 3-5 persons to serve as a 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 pastoral care processes of a case.

- iii. The RC shall give written notice of the minister's application for restoration to the victim(s) and Session/agency affected by the misconduct. All affected parties shall be given opportunity to speak to the RC.
 - 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.
 - 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 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?"
- f. The Pastoral Process
- i. The pastoral care response is carried out by the Response Coordinating Team (RCT). The RCT will work in parallel with the judicial process. The RCT 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.
 - ii. The work of the RCT 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 Response Coordinating Pool, or collection of Presbyterians in good standing

to serve in the various functions of the pastoral care and judicial process.

3. Providing education and training for all members of the RCT and its agents.
4. Offering trained advocates to accusers, the accused, family members and/or involved congregation.
5. Providing pastoral support for any who have made verbal 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 the RCT

1. The RCT shall be nominated by the COM and approved by the Presbytery. The RCT shall consist of nine members on staggered terms, with aggregate expertise, as far as possible, in the following areas:
 - a. The dynamics of sexual abuse
 - b. Psychological counseling
 - c. Child advocacy
 - d. Legal
 - e. Conflict management
 - f. Insurance
 - g. Personnel management
 - h. Pastoral practices
 - i. Church governance and policies
 - j. Public relations
2. The Chair of the RCT shall be a member of COM, appointed by the COM in consultation with the Executive Presbyter or designee.

- iv. Members of the RCT and any individual participating in the work of the RCT shall sign a pledge of confidentiality which shall be submitted to the Executive Presbyter.

VI. 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 offered by the Response Coordinating Team (RCT) 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.

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-10.0100) 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 Ministers of Word and Sacrament, Commissioned Lay Pastors, Certified Church Educators, Presbytery staff, Candidates under care of the Presbytery, and ongoing volunteers serving at the request of the Presbytery.

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

RESPONSE COORDINATING POOL (RCP): The RCP is a pool of Presbyterians in good standing, both clergy and lay, trained and maintained by the Response Coordinating Team to act as the pool from which the necessary committees and teams for the judicial and pastoral care process related to a complaint of sexual misconduct against a minister may be drawn.

RESPONSE COORDINATING TEAM (RCT): The RCT is the body of nine Presbyterians elected by the Presbytery to oversee pastoral care for alleged victims, offenders, and affected families and congregations. It maintains a pool of Presbyterians (the RCP) to serve in the Presbytery's pastoral as well as judicial responses to allegations of sexual misconduct. It is responsible for the training of all such responders.

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

SEXUAL ABUSE occurs whenever a person in a position of trust engages, with or without consent, in a sexual act or sexual contact with another person to whom s/he owes a professional and pastoral responsibility.

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