

Policy 12

PREVENTING AND RESPONDING TO SEXUAL MISCONDUCT

Adopted by the Presbytery of Mackinac

I. Foundation

As God who called you is holy,
be holy yourselves in all your conduct.
1 Peter 1:15

Not many of you should become teachers,
my brothers and sisters, for you knew that we
who teach will be judged with greater strictness.
James 2:15

Tend the flock of God, that is your charge,
not for sordid gain, but eagerly,
do not lord over those in our charge,
but be examples to the flock.
1 Peter 5:2 (NRSV)

II. Purposes

The sixfold purpose of this policy is:

1. To safeguard the members, congregants, and staff of the churches of the Presbytery of Mackinac, the members and staff of the Presbytery, and the people we serve, especially those who are vulnerable, against any form of sexual misconduct, particularly the disciplinary offense of sexual abuse, within the Presbytery of Mackinac.
2. To express our commitment to prevent sexual misconduct by creating an atmosphere in our Presbytery where acts of silence, ignorance, and minimization regarding sexual misconduct are overcome by acts of respect, care and justice.
3. To obtain justice and compassion in cases that involve reports or written accusations of sexual misconduct within our Presbytery.
4. To promote healing of all persons, congregations, or entities in cases involving alleged and/or actual sexual misconduct.
5. To ensure the effectiveness of our Presbytery's judicial processes in cases of sexual misconduct so that the truth shall be determined, the due process rights of those involved shall be honored, wrongdoing shall cease, those who have been victimized

and those who are innocent shall be vindicated, and those who have victimized others shall be held accountable for their actions and their repentance and restoration achieved.

6. To teach this Presbytery's standards of ministry, for both lay persons and those ordained to office, in relation to sexual misconduct in order to fulfill our individual and collective responsibility to preserve the integrity of those standards and our ministry.

III. Guiding Principles

Scripture and our faith in Jesus Christ call us to standards of responsible conduct in all of life, including sexual behavior.

Human sexuality is an integral part of who we are as persons. However, it can become the basis for oppression, where trust relationships are breached and persons are abused. Those who serve in the Church, whether ordained or non-ordained, are often called upon to act in the best interests of parishioners, clients, co-workers, campers, students, and others. This policy is particularly concerned with preventing and responding to the breach of trust, misuse of authority and power, harm to children and other vulnerable persons that occurs when those who serve in the Church engage in sexual misconduct. It is essential that the Church recognizes that sexual misconduct occurs and that charges of misconduct be dealt with in a forthright and frank manner, consistent with protection of the due process rights of the accused.

The Presbytery affirms that all forms of sexual misconduct are contrary to God's will for humanity and are never permissible or acceptable.

All those who serve the Church within the Presbytery in either a temporary or permanent relationship, including clergy, staff, Church officers, Christian Educators, inquirers and candidates, commissioned lay pastors, immigrant fellowship leaders, and volunteers are expected to adhere to Christian ethical principles in their sexual conduct and in the exercise of authority and power. The Church and its extended ministries are to be seen as safe places in the community, places where it is known that sexual misconduct is not tolerated.

It is therefore the policy of this Presbytery that sexual misconduct of any kind by any minister, staff member, Church officer, inquirers and candidates, commissioned lay pastors, immigrant fellowship leaders, or volunteers will be dealt with promptly in accordance with the Presbytery's policy and procedures on sexual misconduct.

All allegations of sexual misconduct, whether verbal, or written, will be taken seriously. Every allegation will be received and acted upon in accordance with the terms of this policy.

IV. Scope of Application

A. Persons Covered

The persons covered by this policy include all members, staff, employees, volunteers, inquirers and candidates for the ministry of Word and Sacrament, Teaching Elders, Christian Educators, commissioned lay pastors, immigrant fellowship leaders, entities, agencies, committees, and affiliates of the Presbytery of Mackinac to the extent that each is subject to the jurisdiction, control and/or supervision of Presbytery in the performance of their duties and services to the Presbytery.

The administration of this policy particularly affects the following positions and committees of this Presbytery in the discharge of their responsibilities: the Stated Clerk, the General Presbyter, the Committee on Ministry, the Committee on Preparation for Ministry, the Investigating Committee, and the Response Coordination Team.

B. Adaptation for Congregational Use

In recognition of the policy of the Presbyterian Church (U.S.A.) by which a session is responsible for the mission and government of a particular church, and recognizing that individual churches are responsible for the selection and supervision of officers, staff and volunteers, except for members of Presbytery, the Presbytery of Mackinac urges each session of its member churches to adopt a sexual misconduct policy applicable to that church and its mission and ministry. **Where no local congregational policy exists, the Presbytery encourages the local church to adopt this policy for its use.** The Presbytery especially recommends that each session of its member churches consult the denominational resources for developing a policy at www.pcusa.org/sexualmisconduct.

V. Definitions

At the time of its adoption by the Presbytery of Mackinac, this policy utilizes some terms and definitions contained in the current edition of the Church's Book of Order and the Book of Confessions. If either part of the Church's constitution is revised after the effective date of this policy, the most recent edition of the Church's constitution shall be the authoritative source for those terms and definitions.

A. Types of Sexual Misconduct

1. **Sexual Misconduct** is the comprehensive term used in this policy to include, but is not limited to child sexual abuse, sexual abuse of another person, sexual harassment, and production or distribution of pornography, as more fully defined below.

Sexual misconduct does not include non-abusive relationships between spouses, and this policy is not intended to restrict church professionals from having normal, mutual, intimate relationships outside of the ministerial or professional context.

2. **Child Sexual Abuse** is the subset of conduct falling within the more comprehensive term of “sexual misconduct.” It includes, but is not limited to, any contact or interaction between a child and an adult, or between an adult of diminished capacity and another adult, when the child or adult of diminished capacity is being used for the sexual stimulation of the adult person or of a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult, or between an adult of diminished capacity and another adult, is always considered forced whether or not consented to by the child or the adult with diminished capacity. In the Presbyterian Church (U.S.A.), the sexual abuse definition of a child is anyone under age 18. **Mutual consent is NOT POSSIBLE** when one party is a clergy/professional lay leader in a pastoral, counseling, employer or leadership position within the Church, related organization, or sponsored activity in which the other party is a parishioner, member, counselee, employee or participant, OR when one of the parties is a child or an adult of diminished capacity.

3. **Sexual Abuse of Another Person** is a subset of conduct falling within the more comprehensive term “sexual misconduct.” As defined by the Book of Order D-10.0401c, this disciplinary offense includes any sexual conduct in relation to 1) any person under the age of 18 years, or over the age of 18 years without the mental capacity to consent, or 2) any person when the conduct includes force, threat, coercion, intimidation, or misuse of office or position. Lack of mental capacity may be a temporary incapacity due to the influence of a narcotic or intoxicating substance, or impaired capacity due to psychological, emotional, or spiritual vulnerability (e.g. due to grief resulting from a significant loss.) Misuse of office or position refers to sexual conduct committed by one while functioning in relationship to the victim within the context of a ministerial or professional role. **Mutual consent IS NOT POSSIBLE** when one party is a clergy/professional lay leader in a pastoral, counseling, employer or leadership position with the Church, related organization, or sponsored activity in which the other party is a parishioner, member, counselee, employee or participant, OR when one of the parties is a child or an adult of diminished capacity. **Wherever a ministerial or professional relationship exists, it remains the responsibility of the minister or professional to maintain appropriate boundaries and to decline to engage in a sexual relationship.**

4. **Sexual Harassment** is a subset of conduct falling within the more comprehensive term “sexual misconduct.” Unwelcome sexual advances, request 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, their continued status in an institution, or their continued participation in activities of the Church. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual; 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, or an individual is subjected to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit men, women or children.

5. **Production of Distribution of Pornography** is defined by the actions or policy statements of the General Assembly of the Presbyterian Church (U.S.A.).

B. Other Definitions

1. **Accusation** is a written statement or claim that an offense may have occurred. See Book of Order D-10.0102. The forms in which an accusation should be submitted by an individual, or by a member of a council, are found in the Appendix hereto. An individual may also come forward in self-accusation.
2. **Accused** refers to the person against whom a claim of sexual misconduct is made.
3. **Accuser** refers to the person reporting 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.
4. **Advocate** is the person who, at the request of the victim or the accuser, may accompany the victim or accuser, at each and every conference with the investigating committee, the prosecuting committee, and the session or the permanent judicial commission. The role of the advocate is to provide support and consultation. The advocate may be the same person assigned by the Response Coordination Team to be the victim or accuser's liaison. See D-10.0203 a., b.
5. **Alternative Form of Resolution** is a process in which the parties to a disciplinary case determine whether any agreement can be reached concerning any charges which may be filed. The process is ordinarily initiated after an investigating committee has determined there is probable cause to believe a disciplinary offense has been committed and can reasonably be proved, but before the filing of any charges, and requires the written consent of all parties and requires a determination by the Permanent Judicial Committee, whether to approve or disapprove the charges and/or censure. D-10.0202i; D-2.0103.
6. **Church** when spelled with the first letter capitalized, refers to the Presbyterian Church (U.S.A.); when spelled with the first letter in lower case, it refers to local churches. The word "congregation" is used loosely for members and participants.
7. **Employee (member or non-member)** is the comprehensive term used to cover individuals who are hired or called to work for the Church, council, 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.

8. **Council** is a representative body composed of ruling elders and teaching elders, these are sessions, presbyteries, synods and the General Assembly. A council may establish entities such as day care centers, conference centers, camps, homes for the aged, or other mission entities. A council may have both Church members and non-members as employees.
9. **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.
10. **Investigating Committee**, as defined in D-10.0201ff, is the body charged with performing the investigation/inquiry on behalf of the presbytery. Response by an Investigating Committee is required by the Rules of Discipline (in the case of a minister member of Presbytery.) See D-10.0103 to 10.0105, D-10.0201 and D-10.0202, which give specific direction regarding the Investigation Committee's work and report. This committee determines whether charges should be filed. The Investigating Committee is appointed by rule of Presbytery as soon as notified by the Stated Clerk that an allegation has been received. The Investigating Committee shall conduct its investigation in accordance with the Rules of Discipline in the Book of Order. At the beginning of each and every conference with the accused the Investigating Committee shall inform the person of his/her rights as stated in D-10.0203. The Investigating Committee's conclusions will be communicated to all as provided by D-10.0300 to 10.0303. If charges are filed, the provisions of D-10.0400 shall be followed, and trial shall proceed in accordance with D-11.000ff.
11. **Liaison** refers to the person who relates to the victim, or the accused or the congregation throughout the inquiry process and any subsequent proceedings. It is the role of the liaison to determine needs and deploy resources to those to whom the liaison has been assigned. The liaison may also serve as an advocate (see definition above) if called to do so. **The out-of-pocket expenses of the person serving as liaison will be covered by the Presbytery.**
12. **Mandated Reporter** is a person required by Michigan Law to report any and all suspected incidents of child abuse, including child sexual abuse that comes to their attention. Book of Order: G-4.0302.
13. **Offense** is defined by the Book of Order, Rules of Discipline, D-2.0203b, as "any act or omission by a member or a person in an ordered ministry of the church that is contrary to the Scriptures or the Constitution of the Presbyterian Church (U.S.A.)." Behavior that violates this policy may be cited in a formal complaint or allegation of sexual misconduct filed with the Stated Clerk which accuses a member or officer of a disciplinary offense.
14. **Response** is the action taken by the council or entity when a report of sexual misconduct is received.

15. **Response Coordination Team** is a body constituted by a council or entity to facilitate the process of responding to allegations of sexual misconduct by a person covered by this policy.
16. **Staff** refers to a person who is either an employee or a volunteer sanctioned to perform a function on behalf of this Presbytery on one of its entities.
17. **Victim** is the term used to identify the person(s) who have been injured by sexual misconduct.
18. **Volunteer** refers to a person who provides services to the Presbytery, or a church, or related organization without financial or material remuneration.

VI. Preventive Practices

The following areas of procedures are intended as measures to prevent and eliminate any form of sexual misconduct within the Presbytery.

A. Distribution of Policy

1. This policy shall be distributed to all of the following: inquirers and candidates for the ministry of Word and Sacrament who are enrolled in this Presbytery, ministers of the Word and Sacrament who are members of the Presbytery or who have permission to labor within or outside its bounds, Christian Educators, commissioned lay pastors of the Presbytery, immigrant fellowship leaders, all employees and entities of the Presbytery, and all clerks of sessions of congregations.
2. It is the responsibility of those identified in VI-A.1 above to communicate this policy to, and implement this policy with, volunteers who provide services for the Presbytery or its entities.
3. This policy shall be made available by the Stated Clerk to all persons who report or present allegations of sexual misconduct, and to all persons against whom allegations are filed.

B. Signed Acknowledgment of Receipt

Each inquirer and candidate, teaching elder, Christian Educator, commissioned lay pastor, immigrant fellowship leader, and employee of the Presbytery of Mackinac and its entities is required to sign a written acknowledgment indicating that she/he has received, read, understands, and agrees to conduct her/himself in accordance with this policy (see Appendix.) This signed acknowledgment shall be kept in the person's personnel file.

C. Disclosure by Those Seeking to Serve, or to Establish Membership, Within the Presbytery

1. All teaching elders seeking calls related to a Church council within the Presbytery of Mackinac are required to complete the Personal Information Form, or its current successor form, as distributed by the Call Referral Services office of the Church, including Part IV, Sexual Misconduct Information, or its successor form.
2. In the case of a teaching elder who seeks either membership or permission to labor within the bounds of Presbytery and who is not called to a Church council within the Presbytery, the minister is required to complete the Minister/Employee/Staff Certification (see Appendix.) If the applicant provides false or misleading information, or withholds relevant information, the applicant may be denied approval. If discovered after the fact, this false or misleading statement may be grounds for separate disciplinary action.
3. All person(s) other than teaching elders who seek to serve the Presbytery as employees and staff are required to complete the Teaching Elder/Employee/Staff Certification (see Appendix.) If the applicant provides false or misleading information, or withholds relevant information, the applicant may be denied consideration. If discovered after the fact, this may be grounds for termination.

D. Responsibility to Confirm

1. The council or entity of employment of oversight is responsible for contacting references for prospective teaching elders, commissioned lay pastors, or employees who seek to serve the council or entity in accordance with the Presbytery's policy on background checks. In the case of immigrant fellowship leaders, the Church Development Committee shall be responsible for checking references. Presbytery's General Presbyter and/or Presbytery's Committee on Ministry are responsible for contacting references for Teachings Elders, Christian Educators, and for Commissioned Lay Pastors. Presbytery's Personnel Committee is responsible for employees of Presbytery.
2. If a reference(s) provides negative information regarding the applicant and sexual misconduct, the applicant shall be informed of such and given opportunity to submit a response to the information and/or submit additional references.

E. Disclosures in Relation to Those Seeking Transfer of Membership From, or Permission to Labor Outside the Bounds of, This Presbytery

In the case of a teaching elder, Christian Educator, or a commissioned lay pastor who seeks either to transfer membership to another presbytery, or to labor beyond the bounds of this Presbytery, the General Presbyter, or designee, authorized to give reference shall be obligated to provide complete information regarding pending allegations, and administrative or disciplinary action related to sexual misconduct and the applicant. Disclosure related to

sexual misconduct must be limited to council records and written documents in the applicant's personnel file as maintained by the Presbytery.

F. Mandatory Education

There will be presbytery-wide training on this new policy after its adoption.

1. **The Presbytery of Mackinac requires that the following persons shall complete a Presbytery-sponsored training workshop regarding the forms of sexual misconduct addressed in the policy:** all teachings elders who are members of the Presbytery, all certified Christian Educators, commissioned lay pastors of the Presbytery, and all employees of the Presbytery. The workshop will be conducted periodically as needed for those persons in the previous categories who are new to the Presbytery in that calendar year or are new since the last workshop. **Those honorably retired minister members who are not active in the presbytery or active in a local congregation as parish associate are exempt from the training workshop.**

The workshop will be arranged by the Committee on Ministry and conducted every 4 years.

The names of those who have not completed the training workshop will be noted in a Committee on Ministry report to the Presbytery.

2. The Presbytery encourages all actively serving pastors, whether retired or currently serving a church, to attend the Boundary Workshop for the most current information on this topic. This workshop fulfills the mandate of the Manual of Operations of the Presbytery of Mackinac to provide a workshop for all pastors on boundaries and a review of the sexual misconduct policy of the Presbytery. A certificate will be given to each pastor attending the workshop with the date of attendance and that they have completed the workshop. A copy of the certificate will be placed in the person's file at the presbytery office. For those active pastors declining to attend the workshop, the Council of the Presbytery of Mackinac has recommended the following steps be taken. Ministers will have one year to attend a Boundary Workshop, whether in our presbytery or another. If they do not attend a Boundary Workshop in one year's time, those who have not attended will be counseled by the Committee on Ministry as to the reasons that they declined to attend, and also on the material missed in the workshop, including a review of the sexual misconduct policy. They will be requested to sign a statement that they declined to attend and the signed statement will be placed in their file at the presbytery office.
3. Each council is responsible for providing training concerning sexual misconduct issues for those under their jurisdiction.
4. The Presbytery assigns to the Committee on Preparation for Ministry the responsibility to ensure that inquirers and candidates for the ministry of Word and

Sacrament who are enrolled with this Presbytery receive a copy of this policy and sign an agreement to abide by same.

5. The Presbytery assigns to its particular entities of service the responsibility to ensure that Presbytery volunteers receive training in regard to sexual misconduct.

G. Liability and Insurance

Councils and entities should regularly inform their liability insurance carriers of the activities and programs they operate or sponsor and of the duties and responsibilities of officers, employees, and volunteers. The standard insurance policy must be enhanced by endorsements to cover specific exposures such as camps, day-care operations, shelters, or other outreach programs. It is also recommended that governing bodies and entities seek to obtain an endorsement to their general liability insurance policy specifically covering sexual abuse and molestation. Such coverage may provide for legal defense expenses and judgements in civil suits brought against the organization, its officers, directors or employees.

VII. Reporting

A. Initial Reports

1. **Importance of Prompt Reporting: Allegations of sexual misconduct should be made as promptly as possible.** The ability of the Presbytery to respond **quickly** and justly to sexual misconduct is related in part to the opportunity to receive allegations and to gather evidence soon after the occurrence. This Policy, however, recognizes the special problems sometimes related to discovery and recognition of certain forms of sexual misconduct. For example, child sexual abuse may not be recognized until the victim of abuse reaches the age of awareness or recognition, or fear may deter a victim from coming forward. Therefore, reports of certain forms of sexual misconduct may be delayed for many years.
2. **Statute of Limitations:** Other than in the case of sexual abuse as defined in D-10.0401c., charges of sexual misconduct must be filed no later than five years from the commission of the offense, or one year from the forming of an investigating committee. There is no statute of limitations for filing charges alleging sexual abuse of any person under 18 years of age or adults of diminished capacity, or when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position. (D-10.0401c.)
3. **Awareness of Reporting Channels:** Reports of sexual misconduct may occur in a variety of ways. Because a council or entity cannot control to whom the accuser of sexual misconduct will first speak, it is important that officers, employees, and persons highly visible to Church members and visitors understand how reports of incidents are channeled to the proper persons.

4. **Importance of Confidentiality:** Allegations of sexual misconduct should never be taken lightly or disregarded and allowed to circulate without concern for the well-being, integrity, and reputation of the accuser, the accused, and the Church. Allegations should be dealt with as matters of highest confidentiality, before and after they have been submitted to appropriate authorities as outlined below.
5. **Notice of Opportunity to File Written Statement:** The first person to learn of an incident of alleged sexual misconduct should, based on information from the accuser, encourage the accuser to speak to a higher authority, lest the Church be unable to respond because no one is able to give firsthand information. The person should not seek to investigate or corroborate on his or her own. A report should be directed to the Stated Clerk when the accused is a teaching elder, and to the clerk of session of the congregation when the accused is a non-minister.

In all cases, and particularly in cases where the accuser is hesitant to talk to a higher authority, the person receiving the initial report should advise the accuser of the opportunity to submit a written report. The Stated Clerk shall also inform the General Presbyter and the Moderator of the Committee on Ministry of an allegation against a teaching elder, even in cases where the accuser is unwilling to submit a written statement so that the General Presbyter and/or Moderator of the Committee on Ministry can coordinate pastoral care to all parties.

B. Written Statement

1. **Filing Written Statements When Victim Unwilling or Lacks Standing:** A member of a council receiving information from any source that an offense may have occurred shall submit a written statement of the alleged offense. See D-10.0102b. That written statement should be submitted to the Stated Clerk of the Presbytery when the accused is a teaching elder, and to the clerk of session when the accused is a congregation member. D-10.0101. A member of a council who receives information of an alleged offense should submit a written statement when the victim of the alleged offense is not a person under the jurisdiction of the PCUSA and therefore does not have standing to file a written statement directly.
2. **Handling Written Statements:**
 - a. **Against Teaching Elder of Presbytery:** Upon receipt of a written statement that a minister member of the Presbytery has allegedly committed an offense, the Stated Clerk, without undertaking further inquiry, shall then report to the council only that an offense has been alleged, without naming the accused or the nature of the alleged offense, and refer the statement immediately to an Investigating Committee. (D-10.0103.)
 - b. **Against Others:** Upon receipt of a written statement that someone other than a teaching elder of the presbytery has committed an alleged offense, the Stated Clerk shall submit the written statement to the clerk of the council having jurisdiction over the member.

C. Mandatory Reporting Duties of Teaching Elders, Ruling Elders, and Deacons under the Book of Order

- 1. Teaching Elders:** A teaching elder reports to ecclesiastical and civil legal authorities knowledge of harm, or the risk of harm, related to the sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of a confidential communication made in connection with the exercise of pastoral care (as defined in Book of Order G-4.0301, or (2) the teaching elder or ruling elder reasonably believe that there is risk of future physical harm or abuse. See Appendix: Michigan Law
- 2. Ruling Elders and Deacons:** Under the Book of Order (see G-4.0302) ruling elders and deacons are also required to report such sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of a confidential communication as defined in G-4.0301, (2) she or he is not bound by an obligation of privileged communication under law, or (3) she or he reasonably believes that there is risk of future physical harm or abuse. See Appendix: Michigan Law
- 3. Ecclesiastical and Civil Authorities:** The appropriate ecclesiastical and civil authorities to whom teaching elders, ruling elders, and deacons shall report suspected abuse are as follows:
 - a. Ecclesiastical authorities:**
 - (1) For accused teaching elders, to the Stated Clerk of the Presbytery; for accused ruling elders and deacons, to the clerk of session.
 - (2) **If the accused is an employee or volunteer**, it would go to the council that has accountability jurisdiction over the employee or volunteer
 - b. Civil legal authorities:** In the case of suspected abuse of a minor, to the Michigan Department of Child Protective Services; in the case of suspected abuse of an adult who lacks mental capacity, to the appropriate police authority or district attorney.

D. Reporting Requirements Under Michigan Law

The requirements imposed by Michigan law, as opposed to the Book of Order, for reporting sexual molestation or abuse of a child under the age of 18 years are set forth in the Michigan Child Protection Law Act 238 of 1975, attached in Appendix.

Reporting Requirements under Wisconsin Law: Google Wisconsin Department of Children and Families, Reporting Child Abuse and Neglect. File report according to their directions by county.

E. PCUSA Hotline

The Presbyterian Church (U.S.A.) has a sexual misconduct hotline. The number is 1-888-728-7228 ext. 5207 or 1-502-569-5207. It is staffed by the sexual misconduct ombudsperson. The purpose of this hotline is to provide pastoral care and direct the caller to the appropriate jurisdiction that will receive the report or allegation.

F. Immediate Consideration of Administrative Leave in Certain Cases of Alleged Sexual Abuse

When the Stated Clerk of the Presbytery receives a written statement of alleged sexual abuse committed by a teaching elder against a person under the age of 18 or a person alleged to lack mental capacity to consent, the Rules of Discipline, D-10.0106 shall be followed.

G. Request to Refer

Whenever the circumstances of an alleged offense by a minister member of Presbytery involve matters or questions for which it is desirable or necessary that a higher council decide the case, the Presbytery Permanent Judicial Commission may submit a written request to the Synod Permanent Judicial Commission to refer the matter to it. Similarly, a session may request to refer a matter to the Presbytery Permanent Judicial Commission when an alleged offense by a member involves matters or questions for which it is desirable or necessary that the Presbytery decide the case. D-4.0100ff.

VIII. Response Procedures

In any incident of sexual misconduct there are two dimensions that necessitate a response: 1) a pastoral response and 2) a judicial or disciplinary response. Both are key elements in accomplishing the goals of justice and compassion.

A. Pastoral Response

In responding to accusations of sexual misconduct, the Church should promote healing and assure the protection of all persons. Where possible and within the limits of the process, contemplated under this policy, the privacy of persons should be respected. The Book of Order assures all persons of fair procedures in the disciplinary process, and all persons involved should be informed of these procedures at the outset.

When the Stated Clerk of the Presbytery receives a verbal report or written statement of an alleged offense, the Stated Clerk shall immediately notify the General Presbyter and the Moderator of the Committee on Ministry of the allegation. The Presbytery's pastoral response will be managed by the Presbytery's Response Coordination Team which will be overseen by the Committee on Ministry. The process for pastoral care is the following: 1) The Investigating Committee will ask the victim, the accuser, the accused, and the Church if they want pastoral care and if yes - Do you want us to initiate or you to initiate? If no: Investigating Committee will give contact phone numbers. If yes, the Moderator of the

Committee on Ministry, upon a request from the Investigating Committee for pastoral care, shall contact the Response Coordination Moderator within two days and the Response Coordination Team Moderator will assign a liaison.

A fundamental principle in responding to an accusation of sexual misconduct is to ensure that the actions of the Response Coordination Team promote and enhance the process of reconciliation and healing by effectively supporting those affected, without compromising or disrupting (i) any inquiry of the appointed investigating committee or any investigation by civil authorities and due process or (ii) inquiry or judicial process that may be undertaken by the council.

1. Response Coordination Team (RCT)

The Presbytery's pastoral response will be managed by the Presbytery's Response Coordination Team, **under the oversight of the Committee on Ministry.**

- a. Composition:** The Response Coordination Team shall be diverse as to gender, clergy/lay members and shall reflect the ethnic background of the alleged victim as much as possible. The Presbytery shall elect at least six persons, composed of lay persons, minister members of Presbytery, or Christian Educators, to serve staggered three-year terms on the Response Coordination Team. The initial classes shall be two members for a one-year term, two for a two-year term, and two for a three-year term. The General Presbyter and/or the Moderator of the Committee on Ministry shall appoint a Moderator of the Response Coordination Team. The Moderator will serve for a two year term beginning on January 1st of every year. No Response Coordination Team member shall be a member of the congregation where the alleged offense occurred.
- b. Duties:** The Response Coordination Team will be responsible for the following:
 - 1) Providing for Presbytery-wide training on preventing sexual misconduct and on the Presbytery's policy for addressing potential sexual misconduct situations under the oversight of the COM;
 - 2) Identifying, in consultation with the General Presbyter, those ordained officers within the Presbytery who may be appropriate to serve as liaisons to the victim, the accuser, the accused, and the affected congregation(s), training liaisons for their role when notified of a report of potential sexual misconduct;
 - 3) Recruiting and maintaining a pool of potential resources in the Presbytery to who liaisons might refer a victim, accuser, accused, or congregation(s) for professional assistance after an assessment of their needs. This pool should include therapists and counselors such as licensed psychiatrists, licensed clinical psychologists, licensed marriage and family therapists, licensed clinical social workers, including those with expertise in working with children,

lawyers specializing in domestic relations and employment law, skilled mediators, and consultants on conflict management. **All necessary Response Coordination Team expenses shall be paid by Presbytery.**

- c. **Organization of Response Coordination Team's Work:** For purposes of continuity it is recommended that two Response Coordination Team members be assigned to prevention training, two to liaison identification, and two to resource recruitment.

2. Responsibilities of Liaisons

- a. **Needs Assessment and Referral:** The Response Coordination Team will assign a liaison for the victim, accuser, accused, and affected congregation(s). The liaison's tasks are (1) to assess the needs for pastoral, therapeutic, or other assistance and (2) to refer the person(s) to the appropriate resources. Liaisons should make contact with the victim, accuser, accused, or congregation's pastor (or if the pastor is the accused, then with the clerk of session of the congregation) as quickly as possible after being assigned as a liaison. Liaisons should be sensitive to the pastoral care needs of the person to whom they are assigned as they undertake to assess what referral needs might exist and provide the person with names of appropriate resources from the resource pool who might be available to assist them in addressing those needs as well as confidentiality of the matter. In certain circumstances, the competencies of the liaison may be such that it is appropriate for the liaison to serve the role of accompanying the person throughout any administrative or judicial ecclesiastical processes and thus becoming an advocate (see D-10.0203a, b) This accompaniment role is **not** intended to be in lieu of any therapeutic or longer term pastoral counseling that may be needed.
- b. **Potential Needs:** In making their assessment the liaisons should be sensitive to the differing pastoral needs to be addressed. Some of the potential needs are outlined below:

1) Victims and 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 liaison should continue to offer help. The Presbytery's concern shall never be to protect itself or the congregation but, rather, to seek the truth and to offer care to alleged victims and accused.

The extent of the damage to the alleged victims of sexual misconduct will vary from person to person, influenced by such factors as the degree of severity of abuse, the age and emotional condition of the alleged victim, personality dynamics, and the importance of their religious faith. The liaison 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 RCT to be sensitive to the victim's pain and need for healing and to make appropriate discretionary pastoral care available.

2) Congregation or Employing Entity

The allegations against a minister, employee, member or volunteer may polarize the congregation or organization, damage morale, and create serious internal problems. Efforts should be taken to recognize and identify the problems and heal the damage done to the congregation or organization. The congregation should also seek to be a community of healing for victims in some circumstances. The Response Coordination Team may need to provide resources and training for the congregation in this ministry.

3) Accused

In working with the accused and the family of the accused, the liaison should be aware of these possible needs:

- a. To receive information about the charges. When an accusation of sexual misconduct has been received by the Response Coordination Team, the accused must be notified in writing. The accused shall be warned that any statements made to the RCT may be used against the accused in later proceedings.
- b. To be informed in a timely way about the process with regard to an accusation. The Response Coordination Team shall explain the process used by the council when an accusation of sexual misconduct has been made and the options available to the accused. The liaison shall direct the accused to the Stated Clerk for any information regarding the ongoing process of any judicial case.
- c. To be represented by Counsel. Each of the parties in a disciplinary case shall be entitled to appear and may be represented by counsel, provided, however, that no person shall act as counsel who is not a member of the Presbyterian Church (U.S.A.). No member of a permanent judicial commission shall appear as counsel before that commission while a member. Counsel need not be a paid

representative or attorney-at-law. (D-11.0301) “Counsel” here means “adviser” or “counselor.”

- d. To receive personal and therapeutic support. The accused may require spiritual and professional assistance. The Response Coordination Team should offer to help arrange for such support from a pastor or therapist, if the accused desires.
- e. To receive assistance with economic security and care for the family. When an allegation of sexual misconduct has been made against a minister or staff of the Presbytery, the economic security of the accused is directly threatened along with reputation, career, and family relationships. The Presbytery may be of assistance when the accused is a minister. The Response Coordination Team may alert the General Presbyter to the possible spiritual, emotional and financial needs of the family of an accused minister and the General Presbyter recommends expert resources. The Response Coordination Team shall not become personally involved with trying to meet those needs.

4) Non-Victim Accuser

In many cases the non-victim accuser is the parent, guardian, or other advocate for a child who has been the alleged victim of sexual misconduct. Because of a child’s minority status, an adult often files the action on behalf of the child. In cases where the accuser is a non-Presbyterian, oral notification may be turned into a formal allegation under the Rules of Discipline by any member of the Presbyterian Church (U.S.A.)

B. Judicial Response

1. Appointment of Investigating Committee

Immediately upon receipt of a written statement of alleged sexual misconduct by a teaching elder, the Stated Clerk of the Presbytery shall appoint an investigating committee according to the Presbytery Standing Rule. In the case of alleged sexual misconduct by a ruling elder or deacon, the session shall appoint an investigating committee. The investigating committee shall be composed as outlined in D-10.0201 of the Book of Order, and shall proceed with its investigation as outlined in D-10.0202.

2. Authorized Communications Concerning Status of Accusation During Investigation or Disciplinary Proceeding

- a. **General Rule of Confidentiality:** Prior to the filing of charges, the Book of Order protects the confidentiality of the identity of an accused and of the allegations of a disciplinary offense by limiting the disclosure of

information in the Presbytery minutes to the facts that an allegation has been received and an investigating committee appointed. (D-10.0103).

b. Permitted Communications to Address Pastoral Needs: During the course of the investigating committee's work, the Response Coordination Team has primary responsibility for ensuring that any pastoral care needs are met. Liaisons/advocates for an alleged victim, the accused, and the affected congregation (s) may have a need for pastoral reasons, for information about the status of the investigation, and the investigating committee itself may identify additional persons who have a need for pastoral care. Under these circumstances, the following communications may be made:

- 1) The liaison/advocate for a victim, accuser, accused, or affected congregation(s) should communicate with the Stated Clerk of the Presbytery to receive general information about the status of the matter - such as when the investigating committee expects to make a recommendation on whether charges should be filed or when the presbytery will receive a report on the filing of charges. If the accused is represented by counsel, then counsel for the accused should direct inquiries to the investigating committee.
- 2) If the investigating committee's work uncovers other victims or affected persons who may have a need for pastoral response from the Presbytery, the investigating committee may communicate that information to the Committee on Ministry Moderator, who may communicate the need for additional pastoral care to the Moderator of the Response Coordination Team. These communications shall not disclose confidential factual details about the underlying allegations, but only the fact of a potential need for pastoral care.

3. Consideration of Administrative Leave by Investigating Committee
Administrative Leave is set forth in D-10.0106.

4. Investigating Committee's Work
The investigating committee's responsibilities are detailed in D-10.0202.

- a. **No charges filed:** If the Investigating Committee concludes, after a thorough investigation, that there is no probable cause to believe that an offense was committed by the accused or that charges cannot reasonably be proved based on the available evidence and witnesses, then it shall report that conclusion to the Stated Clerk, and the Presbytery shall be informed only that no charges were filed. G-10.0303.
- b. **Charges to be filed and accused concurs:** If at any time during the investigation the accused admits to the allegations, the investigation shall proceed to its conclusion, the charges shall be filed with the permanent judicial commission.

- c. **Charges to be filed and accused does not concur:** If the Investigating Committee concludes that probable cause exists and charges can reasonably be proved, but the accused does not concur with the allegations, charges are to be filed with the Permanent Judicial Commission, and the judicial process is to continue as outlined in D-10.0400ff.

5. Consideration of Alternative Form of Resolution

Where an Investigating Committee determines there is probable cause to believe that any offense falling within the definition of sexual misconduct has been committed, an alternative form of resolution may be used to reach agreement on the consequences of the offense. In other words, in cases where the Investigating Committee believes sexual misconduct has occurred and can reasonably be proved; mediation of guilt or innocence is not appropriate. Rather, the alternative form of resolution must include an acceptance of responsibility for the offense. Such an admission of responsibility by the accused is an important demonstration that one of the pastoral aims of discipline - namely repentance - will be served by the use of an alternative form of resolution. In all cases where an alternative form of resolution is pursued through mediation, the mediation shall be completed within 120 days of notice to the Permanent Judicial Committee that the Investigating Committee is beginning an alternative form of resolution but no later than 1 year from the time in which the Investigating Committee has been appointed or 3 years from the time in which the alleged offense occurred. Any settlement agreement must be presented to the session or Permanent Judicial Commission for its approval, as outlined in D-10.0202i.

In negotiating a settlement, the parties are encouraged to agree on the extent of the background facts that will be disclosed to the session or Permanent Judicial Commission to enable it to exercise its approval responsibility in an informed fashion.

6. Terms of Censure and Restoration

The degrees of censure that may be imposed by a Permanent Judicial Commission are listed in D-12.0100, and the terms of restoration in D-12.0200.

7. Request for Vindication

A member of the Presbyterian Church (U.S.A.) who feels injured by rumor or gossip may invoke the procedures outlined in D-9.0101ff to request an inquiry for vindication.

8. Pastoral Inquiry by Administrative Commission When Accused in Sexual Abuse Case Dies or Renounces Jurisdiction.

(By all councils) making pastoral inquiry into persons accused of sexual abuse of another person (D-10.0401c) when jurisdiction in a judicial proceeding against such persons has ended due to death or renunciation of the accused; such inquiries shall not be understood as judicial proceedings but shall seek to reach a determination of truth related to the accusation and to make appropriate recommendations to the designating council. See G-3.0109b(6).

THE ROLE OF THE GENERAL PRESBYTER

The role of the General Presbyter in sexual misconduct cases shall be, on receipt from the Stated Clerk of Presbytery of reports of alleged sexual misconduct, to inform the Moderator of the Committee on Ministry that a report has been received. The General Presbyter shall contact the Presbytery's Insurance Company when it becomes necessary to inform the insurance company of a report or claim, to consult the Presbytery's attorney when such consultation is necessary, and to deal with inquiries from the media if inquiries are received. Otherwise the General Presbyter shall provide leadership and coordination in ministering to the persons and congregations affected by the report or claim. Other involvement of the General Presbyter in a particular situation shall be determined in consultation with the Committee on Ministry and the Response Coordination Team.

MEDIA CONTACT

Any inquiries from the media regarding an incident of sexual misconduct must be directed to the General Presbyter, and should be addressed only by the General Presbyter or the General Presbyter's designee. Members of the Response Coordination Team or Committee on Ministry shall not respond to questions from the media except to refer the questioner to the General Presbyter.

REVIEW

The Committee on Ministry shall review the Policy periodically to determine whether changes need to be made in light of experience, and recommend changes to the Presbytery through the Coordinating Council.

Appendices

Signed Acknowledgment of Receipt

Minister/Employee/Staff Certification

The Michigan Child Protection Law Act 238 of 1975

Form for Accusation

Flow Chart on Responding to Sexual Misconduct Allegations

Acknowledgment of Receipt

I hereby acknowledge that on **(date)** _____, I received a copy of the Policy on Preventing and Responding to Sexual Misconduct of the Presbytery of Mackinac, Presbyterian Church (U.S.A.), dated _____ that I have read the policy, that I understand its meaning; and that I agree to conduct myself in accordance with the policy. I understand that this acknowledgment shall be retained in my personnel file.

I completed the Boundary Workshop on _____ at _____ conducted by Mackinac Presbytery.

Signature

Name

Relationship to Presbytery: Inquirer for the Ministry of Word and Sacrament
Candidate for the Ministry of Word and Sacrament
Teaching Elder
Certified Christian Educator
Commissioned Lay Pastor
Immigrant Fellowship Leader
Employee (specify work site): _____

Date

Teaching Elder/Employee/Staff Certification

To be completed by:

- 1) A teaching elder who seeks either membership or permission to labor within the bounds of Presbytery and is not called to a Church council within the Presbytery, e.g. a chaplain or a retired minister.

- 2) All persons other than teaching elders who seek to serve the Presbytery as employees or staff, including commissioned lay pastors, certified educators, and immigrant fellowship leaders.

I certify that (a) no ecclesiastical, civil, and/or criminal complaint of sexual misconduct has ever been sustained or is pending against me; (b) I have never resigned or been terminated or suspended from employment or a volunteer position for reasons related to sexual misconduct; and, (c) I have never been required to receive professional treatment for reasons related to sexual misconduct on my part.

Signed

Date

NOTE: If you are unable to make the above certification, you may provide a description of the complaint, circumstances of termination, and/or course of professional treatment, giving dates, names, and addresses of employers and/or volunteer supervisors, churches served, and treating professionals, the outcome of the situation, and any explanatory comments you care to add. If you provide false or misleading information, or withhold relevant information, you may be removed from consideration.

Release

The information I have provided is accurate to the best of my knowledge and may be verified by the employing or supervising entity. I hereby authorize the entity executive (Name), _____, to make any and all contacts necessary to verify my prior employment and volunteer history, and to inquire concerning any ecclesiastical records, criminal records, or any judicial proceedings involving me as a defendant. By means of this release, I also authorize any previous employer, volunteer supervisor, and any ecclesiastical or law enforcement agencies or judicial authorities to release any and all requested relevant information to the entity executive named above. I have read this release and understand fully that the information obtained may be used to deny me employment or any other type of position from the employing or supervising entity. I also agree that I will hold harmless the employing or supervising entity and entity executive from any and all claims, liabilities, and cause of action for the legitimate release or use of any information.

Signature

Witness

Date

Witness

STATE OF MICHIGAN
Department of Human Services
CHILD PROTECTION LAW

ACT NO. 238, Public Acts of 1975, as amended, being
Sections 722.621 -- 722.638, Michigan Compiled Laws.

AN ACT to require the reporting of child abuse and neglect by certain persons; to permit the reporting of child abuse and neglect by all persons; to provide for the protection of children who are abused or neglected; to authorize limited detainment in protective custody; to authorize medical examinations; to prescribe the powers and duties of the state department of social services to prevent child abuse and neglect; to prescribe certain powers and duties of local law enforcement agencies; to safeguard and enhance the welfare of children and preserve family life; to provide for the appointment of legal counsel; to provide for the abrogation of privileged communications; to provide civil and criminal immunity for certain persons; to provide rules of evidence in certain cases; to provide for confidentiality of records; to provide for the expungement of certain records; to prescribe penalties; and to repeal certain acts and parts of acts.

History: 1975, Act 238, Eff. Oct. 1, 1975; - Am. 1988, Act 372, Eff. Mar. 30, 1989.

722.623 Individuals required to report child abuse or neglect; written report; transmitting report to county department; copies to prosecuting attorney and probate court; conditions requiring transmission of report to law enforcement agency; exposure to or contact with methamphetamine production; pregnancy of or venereal disease in child less than 12 years of age.

Sec. 3

1) An individual is required to report under this act as follows:

- a) A physician, dentist, physician's assistant, registered dental hygienist, medical examiner, nurse, person licensed to provide emergency medical care, audiologist, psychologist, marriage and family therapist, licensed professional counselor, social worker, licensed master's social worker, licensed bachelor's social worker, registered social service technician, social service technician, a person employed in a professional capacity in any office of the friend of the court, school administrator, school counselor or teacher, law enforcement officer, **member of the clergy, or regulated child care provider who has reasonable cause to suspect child abuse or neglect shall make immediately, by telephone or otherwise, an oral report, or cause an oral report to be made, of the suspected child abuse or neglect to the department. Within 72 hours after making the oral report, the reporting person shall file a written report as required in this act.**

INCIDENT REPORT FORM

Date of Report: _____

1. REPORT INFORMATION (please print)

Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____/_____/_____ Email: _____
Cell Phone: _____ Fax: _____
Other: _____

2. ALLEGED VICTIM INFORMATION (if different from reporter) (please print)

Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone: _____/_____/_____ Email: _____
Cell Phone: _____ Fax: _____
Other: _____

3. ACCUSED (Please print)

Name: _____ Ad
dress: _____
City: _____ State: _____ Zip: _____
Phone: _____/_____/_____ Email: _____
Cell Phone: _____ Fax: _____
Other: _____

4. DESCRIPTION OF INCIDENT

Please describe the incident(s) of sexual misconduct, including date, time, and location of each incident.

5. OTHERS HAVING KNOWLEDGE OF THE INCIDENT

Please list the name, address, and phone number of each person who may have information related to or pertinent to the incident. Give email and cell phone if available.

6. OTHER INFORMATION

Please give any additional information that may be helpful.

If you need more room to answer any questions please attach additional sheets.

DISCIPLINARY PROCESS FLOWCHART OF PROCESS

