



PRESBYTERY OF BALTIMORE

Sexual Misconduct Policy and Its Procedures

Context for this Policy

It is the policy of this presbytery, as it is of the denomination that all church members, church officers, non-member employees and volunteers of its member congregations maintain, at all times, the integrity of ministerial, employment and professional relationships. Sexual misconduct of any kind is a violation of scriptural teachings and, also, of ministerial, pastoral, employment and professional relationships. It is never permissible, nor acceptable.

Scope of this Policy

Each person who provides leadership to the Presbytery of Baltimore and its churches is called to a high ethical and moral standard in all aspects of our lives, including our sexual behavior. In this policy we will address sexual misconduct by clergy. Each congregation and organization in the Presbytery of Baltimore is encouraged to develop a policy for church professionals, officers, member, non-member employees, and volunteers which is consistent with the Presbytery's Policy.

Guiding Principles behind this Policy

Sexual Misconduct ...

- is a violation of the covenant that a leader undertakes to act responsibly, with integrity, in a relationship of deep trust.
- is a misuse of power and authority. The notion of “consenting adults” can never apply in clergy/parishioner, or, clergy/staff relationships. Clergy are always expected to keep appropriate professional boundaries.
- takes advantage of those who are vulnerable and, thus, is contrary to the teachings of the Gospel.
- occurs whenever a person in a position of trust or authority engages in a sexual act, contact, or overture with another person to whom he/she owes professional responsibility.

Definitions

SEXUAL MISCONDUCT is a comprehensive term that includes:

Sexual abuse of a minor

Sexual harassment

Adultery

Rape or other sexual assault

SEXUAL MALFEASANCE relates to the relationship of trust which each person who provides leadership to the Presbytery of Baltimore and its churches has to *church members* and staff. This responsibility implies trust that such persons will not seek to sexualize any relationship by intimate physical contact or by emotionally grooming a

parishioner or staff member to become a target of sexualized behavior. To behave otherwise would be in violation of G6.0106b of the Constitution of the PCUSA.

Any sexualized conduct between clergy and parishioners or staff, even if reciprocated or initiated by a parishioner or staff person is *malfeasance*, a betrayal of the fiduciary responsibility. In the Church, this betrayal can lead to personal and congregational crises of faith that exceed the bounds of human relationships and have far reaching negative impact on the faith and work of the Church as the body of Christ.

A dating relationship between a pastor and a church member is ethically problematic and inappropriately crosses professional boundaries.

Should such a relationship develop between a clergy and a member of the church or the staff, it is the responsibility of the clergy to discuss this with the Presbytery Executive, the Committee on Ministry, and the Session in order to agree on a way to restore appropriate professional boundaries.

ACCUSED is the person against whom a claim of sexual misconduct is being made.

ACCUSER/VICTIM is the person claiming knowledge of sexual misconduct by a person covered by this policy, or a person claiming to have been the subject of sexual misconduct by a person covered under this policy. The accuser may or may not have been the victim or target of the alleged sexual misconduct.

ADVOCATE is a person trained by the Sexual Misconduct Response Coordinating Team in the issues of sexual misconduct. Advocates are to provide support and emotional and physical presence, to either the alleged victim(s) and their family, to the Accused and their family, and to the congregation involved in a sexual misconduct case. An advocate also provides clarification of the investigative and judicial process of the church to the person(s) with whom he/she is assigned.

MANDATED REPORTER is described by the law of Maryland as a person who is required to report any and all suspected incidents of child abuse, including child sexual abuse, that come to their attention. (A copy of the Maryland Code is attached.)

INAPPROPRIATE SEXUAL BEHAVIOR is language or behavior that is offensive, obscene, or suggestive, including excessive visual contact or staring, sexualized touching or fondling, the telling of lewd jokes or stories, and the use of obscene terms.

SEXUAL ABUSE OF A MINOR consists of any sexual contact between an adult and an individual under the age of eighteen, or who allegedly lacks the mental capacity to consent. While the ability to consent is the legal basis for determining the legal responsibility of a person to consent to sexual conduct, for the purposes of this policy consent is not an issue. The basic tenant of this policy is that clergy should not be seeking consent for their own sexual gratification from congregation or staff.

SEXUAL HARASSMENT includes any or all of the following:

Sexual advances, requests for sexual favors, other verbal or physical contact of a sexual nature, the establishment of an intimidating/hostile work environment, threats of retribution and requests/demands for secrecy that requires persons to consent as a condition of employment or membership.

Procedure for Investigation of an Allegation of Sexual Misconduct or Malfeasance

- Allegations of sexual misconduct or malfeasance on the part of individuals governed by this policy are to be made in writing to the Stated Clerk of the Presbytery.
- Upon receipt of a written allegation of sexual misconduct or malfeasance, the Stated Clerk shall inform the Executive Presbyter that an allegation has been made and against whom.
- A person who wishes to self-accuse may choose to submit a statement to the Stated Clerk, who then advises the Executive Presbyter. (D-10.0102c)
- An Investigating Committee (IC) shall then be appointed by the Vision Committee of the Presbytery, from an assembled list that has been compiled for this purpose. The IC shall consist of no fewer than three and no more than five individuals. (See BO D-10.0201a) The Stated Clerk will outline for the IC its duties and provide appropriate orientation.
- An initial task of the IC shall be to determine whether the allegation:
 - involves a possible violation of federal, state or local law;
 - is of sufficient severity to warrant immediate administrative leave for the accused.
- The second task of the IC will be to determine whether:
 - the allegation has sufficient merit to warrant further investigation;
 - the accused disputes the general substance of the allegation;
 - the allegation is more appropriately addressed by full investigation rather than by mediation, counseling or less formal measures.
- A third task of the IC is to conduct an investigation. In accordance with D-10.0201 of the Book of Order, during this investigation the IC must:
 - provide the accused with a copy of the statement of the alleged offense as described in D-10.0101 of the BO.
 - make a thorough inquiry into the facts and circumstances of the alleged offense.
 - examine all relevant papers, documents, and records available.
 - identify all available witnesses and interview them.
 - determine, in accordance with G-9.0102 and D-2.9293b, whether there are probable grounds or cause to believe that an offense was committed by the accused.

- decide whether the allegation(s) reported can reasonably be proven, having due regard for the character, availability and creditability of the witnesses and evidence.
 - initiate, if the IC deems it appropriate, alternative forms of resolution.
 - report to the Presbytery whether or not it will file charges.
 - if charges are to be filed, the IC decides how to reconfigure itself as a Prosecuting Committee (PC).
- If the IC decides to file charges, the IC shall
- inform the accused in writing of the charges it will make;
 - ask the accused if they wish to plead guilty, thus avoiding a trial;
 - indicate to the accused the censure it will recommend.
- If the IC decides not to file charges,
- the IC shall file a written report with the Stated Clerk, who will then notify the complainant, that no charges will be filed.
 - a record of the accusation will be retained by the Stated Clerk in a confidential file.
- The Committee on Ministry will be kept informed when an allegation is being investigated, to the extent that is prudent, given COM's responsibility for clergy and congregations.
- Representatives of the Sexual Misconduct Response Team will meet with the Session to explain the process involved in an investigation. It is then the responsibility of the Session to inform the congregation.
- The Presbytery will respect the rights of all parties involved: accusers/victims, accused, and any involved congregation. These rights include:
- to be heard and taken seriously;
 - to be informed about procedures;
 - to obtain legal advice;
 - to be offered an advocate, trained by the RCT.
 - to be assured that justice will be pursued through appropriate procedures;
 - to be offered supportive services toward healing and reconciliation.
- When allegations of misconduct become public, it is important to preserve such information that is of a confidential nature, protecting the rights of both the complainant and accused, while other types of information should be shared in order to avoid misunderstandings, false rumors and destructive speculation.
- Should an accused who is found "not guilty" wish to have an appropriate process for clearing the charges, please see Book of Order – D-9.0000-.0102.

Sexual Misconduct Response Coordinating Team (RCT)

The purpose of the RCT is to assure that an expeditious, professional, objective, effective and caring response is made by the Presbytery to charges of sexual misconduct. This Team is to

be comprised of at least five persons, diverse as to gender, race and clergy/lay. One member of the Team shall be an elected member of COM and serve as a liaison between the two entities. It would be helpful to have members on the RCT who can be a resource in such areas as psychological counseling, child advocacy, law, conflict management, and insurance. The Team will be named, in classes, by the COM and under its supervision.

The RCT WILL NOT investigate an allegation. That is to be done by an Investigating Committee.

The RCT WILL

- be trained by the Stated Clerk
- coordinate the process;
- assign advocates, if requested;
- participate, itself, in education and training regarding sexual misconduct its consequences and its prevention, and, then provide training of others in the presbytery;
- encourage congregations in the development of Sexual Misconduct Policies by offering resources and counsel;
- maintain a file of existing congregational policies.

Procedural Items

The Office of the Executive Presbyter is responsible for pre-employment screening/reference check for all clergy coming into the presbytery, to include questions related to previous complaints of sexual misconduct. Additionally, pre-employment screening for prospective incoming clergy includes a mandatory Criminal History Background Check performed by a private investigative firm which will access the misdemeanor and felony conviction records of courts in the US. All prospective incoming clergy shall be required to sign a written consent and release form authorizing such a background check. The call will not be approved until the background check has been completed. The cost for the background check will be shared equally by the Presbytery and the calling church or employing agency. When this is not possible, the cost shall be borne by the presbytery.

The Executive Presbyter is obligated to give truthful information regarding complaints, inquiries, and administrative or disciplinary action related to sexual misconduct when giving a reference.

The Presbytery shall design a plan for providing of counseling or reimbursement of counseling fees for the victim(s) that involves presbytery, the victim's(s') insurance, the perpetrator, congregation or its insurance for a reasonable period of time, up to a maximum of one year.

Administrative Leave – (See D-10.0106)

When a written statement of an alleged offense of sexual abuse or harassment toward any person under the age of 18, or whom it is alleged lacked the mental capacity to consent, has been received against anyone providing leadership to the Presbytery of Baltimore and its churches, the stated clerk receiving the allegation shall immediately communicate the allegation to the permanent judicial commission. The moderator of the permanent judicial commission shall, within three days, designate two members, who may be from the roster of former members of the PJC, to determine whether the accused shall be placed on a paid administrative leave during the resolution of the matter. The cost of such leave shall be borne by the employing entity whenever possible.

While administrative leave is in effect, a minister or other employee may not perform any pastoral, administrative, educational, or supervisory duties, and may not officiate at any functions such as baptisms, funerals, or weddings.

In some other circumstances than child sexual abuse, provision is made for consideration of Administrative Leave, as well, with the same conditions as stated above.

Education/Prevention

The Presbytery makes a commitment to offer, provide resources for, and to publicize educational opportunities aimed at preventing sexual misconduct in the church. The Presbytery's goal is to provide at least one training event per calendar year for each of the following groups:

- All new minister members of the presbytery are required to attend educational programs on this Sexual Misconduct Policy. Notation of their participation will be made in their permanent file.
- Presbytery staff, Response Coordination Team members, Candidates, and all persons and committee members working with the issue, including local congregation members will be invited to read resources and attend sexual misconduct prevention seminars.
- Local congregations, staff, session members, and any other interested persons shall be invited to a workshop annually that is focused on consciousness raising with regard to the issue, and, information about resources and policies.

Every effort is made on the part of COM, COPM and RCT to offer training to church professionals (educators, musicians, youth workers, personnel committees, etc.) that includes recognition of the following issues:

- Imbalance of power between pastor/educator and those in their care.
- Appropriate boundary setting between pastor/educator and parishioners.
- Identification of high risk behaviors that may be perceived as unwelcome or an infringement on the rights of others: frequent pastoral calling, frequent phone calls, extended time together, physical touching, or other behaviors designed to prepare a targeted person to be victimized.
- Identification of risk factors when counseling or doing spiritual direction, such as maintaining time limits, observing professional ethics regarding physical contact and conducting sessions only in locations that are in general use, thus maintaining confidentiality while avoiding isolation.
- Need for peer supervision.