

SEXUAL MISCONDUCT POLICY

Presbytery of Lake Michigan



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Amended 9-13-11
Amended 11-9-13

Policy on Preventing and Responding to Sexual Misconduct Presbytery of Lake Michigan

I. Foundations

As God who called you is holy, be holy yourselves in all your conduct.

I Peter 1:15

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

James 3:1

Tend the flock of God that is in your charge, exercising the oversight, not under compulsion, but willingly, as God would have you do it - not for sordid gain but eagerly. Do not lord it over those in your charge, but be examples to the flock.

I Peter 5:2-3 (NRSV)

II. Purposes

The six-fold purpose of this policy is:

- 1) To safeguard the members, congregants, and staff of the churches of the Presbytery of Lake Michigan, 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 Lake Michigan.
- 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 understanding, respect, care, and justice.
- 3) To obtain justice and compassion in cases which involve reports or written accusations of sexual misconduct within our Presbytery.
- 4) To promote healing for all persons, congregations, or entities in cases involving 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, supported in healing and efforts made toward their repentance and restoration.

- 6) To teach this Presbytery's standards of ministry, for both members 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, and impairment of the witness of the Church that occurs when those who serve in the Church engage in sexual misconduct. It is essential for the Church to recognize 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 sinful and contrary to God's will for humanity.

All those who serve the Church within the Presbytery in either a temporary or permanent relationship, including teaching elders, staff, church officers, Christian educators, inquirers and candidates, commissioned ruling elders, 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 experienced as safe places in the community, places where it is known that sexual misconduct is not tolerated. This is part of our Christian witness to the community.

It is therefore the policy of this Presbytery that sexual misconduct of any kind by any teaching elder, staff member, Church officer, inquirer or candidate, commissioned ruling elder, immigrant fellowship leader, or volunteer will be dealt with promptly in accordance with the Presbytery's policy and procedures on sexual misconduct, and adhering to the Rules of Discipline in the Book of Order of the Presbyterian Church (USA).

All written allegations of sexual misconduct will be taken seriously. Every allegation will be received and acted upon in accordance with the terms of this policy. The Stated Clerk of the Presbytery can be consulted prior to filing a written allegation.

IV. Scope of Application

A. Persons Covered

The persons covered by this policy include all members, staff, employees, volunteers, inquirers and candidates for the office of teaching elder, teaching elders, Christian educators, commissioned ruling elders, immigrant fellowship leaders, entities, agencies, committees, and affiliates of the Presbytery of Lake Michigan 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 holds accountable the following positions and committees of this Presbytery in the discharge of their responsibilities: the Stated Clerk, the General Presbyter, the Associate Presbyter if applicable, the Committee on Ministry, the Committee on Preparation for Ministry, Response Coordination Team, and the Staff Services Committee.

B. Adaptation for Congregational Use

In recognition of the polity 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 Lake Michigan urges, and the Book of Order requires, 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, to meet the Book of Order requirement (G-3.0106), the Presbytery encourages the local church to adapt 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 and subsequent revision by the Presbytery of Lake Michigan, 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, all 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.

Sexual misconduct also does not include dating by an unmarried clergy person on a multi-clergy staff with a parishioner *provided that* (a) the unmarried clergy person has notified a clergy colleague on that staff prior to commencing the dating relationship and that colleague has agreed to assume all pastoral responsibilities in relation to that parishioner and (b) the unmarried clergy person relinquishes direct pastoral responsibilities in relationship to that parishioner. Even under these safeguards, such a dating relationship harbors the potential for harm. Therefore, extreme caution is warranted.

2. **Sexual Abuse of a Child/Children** is a 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 (USA), the sexual abuse definition of a child is anyone under the age of 18. Mutual consent is NOT POSSIBLE when one party is a teaching elder/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-10.0401 c., 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 teaching elder/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. Wherever a ministerial or professional relationship exists, it remains the responsibility of the teaching elder 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, requests 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 or 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 form on which an accusation should be submitted by an individual, or by a member of a governing body, are found in the Appendix hereto. An individual may also come forward in self-accusation. The form for a self-accusation may also be found in the Appendix.

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 under this 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, with the aid of a third party mediator or arbitrator, 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. See D-10.0202h; D-2.0103.

6. **Church**, when spelled with the first letter capitalized, refers to the Presbyterian Church (USA); 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, governing body, 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. **Governing Body** is a representative body composed of ruling elders and teaching elders; these are sessions, presbyteries, synods, and the General Assembly. A governing body may establish entities such as day care centers, conference centers, camps, homes for the aged, or other mission entities. A governing body 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 (see Book of Order, D-10.0101, D-10.0102 and D-10.0103).

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 teaching elder member of Presbytery). See D-10.0103-10.0105, D-10.0201, and D-10.0202, which give specific direction regarding the Investigating 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-10.0300-10.0303. 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 The Michigan Child Protection Law Act 238 of 1975 to report any and all suspected incidents of child abuse, including child sexual abuse, that come to their attention.

13. Offense as defined by the Book of Order, Rules of Discipline, D-2.0203b., "is any act or omission by a member or officer 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 governing body or entity when a report of sexual misconduct is received.

15. Response Coordination Team is a body constituted by a governing body or entity to facilitate the process of responding to allegations of sexual misconduct by a person covered under this policy. (The structure and function of the Response Coordination Team are detailed in Sections VII.A.1.a of 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 or 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 series 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 office of teaching elder who are enrolled in this Presbytery, teaching elders who are members of the Presbytery or who have permission to labor within its bounds, Christian educators, commissioned ruling elders 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 for the office of teaching elder, teaching elder, Christian educator, commissioned ruling elder, immigrant fellowship leader, and employee of the Presbytery of Lake Michigan 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 governing body within the Presbytery of Lake Michigan 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 the Presbytery and who is not called to a Church council within the Presbytery, the teaching elder is 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 approval. If discovered after the fact, this false or misleading statement may be grounds for separate disciplinary action.

3. All persons 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 or oversight is responsible for contacting references for prospective teaching elders, commissioned ruling elders, 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 Growth Committee shall be responsible for checking references. The Presbytery's Committee on Ministry is responsible for ensuring that references for teaching elders, Christian educators, and for commissioned ruling elders are reviewed. Presbytery's Staff Services Committee is responsible for employees of the 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. Disclosure in Relation to Those Seeking Transfer of Membership From, or Permission to Labor Outside the Bounds of, the Presbytery

In the case of a teaching elder, Christian educator, or a commissioned ruling elder who seeks either to transfer membership to another presbytery or to labor outside the bounds of this Presbytery, the General Presbyter, or designee authorized to give a 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 governing body 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 policy after its adoption.

1. The Presbytery of Lake Michigan requires that the following persons shall complete one Presbytery-sponsored training workshop regarding the forms of sexual misconduct addressed in the policy: teaching elders who are members of the Presbytery, all Christian educators, commissioned ruling elders of the Presbytery, and all employees of the Presbytery. The workshop will be conducted annually for those persons in the previous categories who are new to the Presbytery in that calendar year or are new since the last workshop. *(Amended on 3-9-09 to exempt those honorably retired minister members who are not active in the presbytery or active in a local congregation as parish associate.)* Believing that ruling elders who serve on committees where responsibilities of the Presbytery are delegated, those ruling elders are also required to participate in training.

The workshop will be arranged by the assigned presbytery staff member and the Response Coordination Team.

The names of those who have not completed the training workshop by the end of the year will be reported to the Presbytery by the assigned presbytery staff member and the Response Coordination Team requesting that the Committee on Ministry be instructed to take appropriate action so that those who have not fulfilled this requirement will be required to do so.

2. Each council is responsible for providing training concerning sexual misconduct issues. The Presbytery workshops are open to persons from congregations and entities to which this policy does not apply but who may benefit by participation, e.g., an elder or a youth worker.

3. The Presbytery assigns to the Committee on Preparation for Ministry the responsibility to ensure that inquirers and candidates for the office of teaching elder who are enrolled with this Presbytery receive a copy of this policy and sign an agreement to abide by same.

4. 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 councils 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 judgments 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: For sexual abuse of another person the three-year time limit shall not apply. There is no statute of limitations for filing charges alleging sexual abuse of any person under eighteen years of age or adults of diminished capacity or when the conduct includes force, threat, coercion, intimidation, or misuse of office or position. (D-10.0401c).

3. Awareness of Reporting Channels: Reports of sexual misconduct may occur in a variety of ways. Because a governing body 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 congregation member. 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 notify the Chair of the Response Coordination Team of an allegation against a teaching elder even in cases where the accuser is unwilling to submit a written statement, so that the Team may provide a pastoral response. (See section VIII.A. below.)

B. Written Statements

1. Filing Written Statement When Victim Unwilling or Lacks Standing: A member of a governing body receiving information from any source that an offense may have occurred may 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 governing body 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 Members of Presbytery:** Upon receipt of a written statement that a teaching elder member of the Presbytery has committed an alleged offense, the Stated Clerk, without undertaking further inquiry, shall then report to the governing body 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). As outlined in section VIII.A., the Stated Clerk shall also notify the Chair of the Presbytery's Response Coordination Team of the allegation so that it may provide a pastoral response.

b. **Against Others:** Upon receipt of a written statement that someone other than a teaching elder member of the presbytery has committed an alleged offense, the Stated Clerk shall submit the written statement to the clerk of the governing body having jurisdiction over the member.

C. Mandatory Reporting Duties of Teaching Elders, Ruling Elders, and Deacons Under the Book of Order, G-4.0302

1. Teaching Elder: A teaching elder shall report 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-4.0302, or (2) the teaching elder reasonably believes that there is risk of future physical harm or abuse.

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) they gain knowledge of the sexual molestation or abuse in the course of service to the church, (2) but outside of a privileged communication, and (3) they reasonably believe that there is risk of future physical harm or abuse.

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: For teaching elders and commissioned ruling elders, to the Stated Clerk of the Presbytery; for elders and deacons, to the pastor of the congregation and/or the clerk of session.

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.

E. PCUSA Hotline

The Presbyterian Church (USA) 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 report events, even if the victim is not ready to pursue a formal complaint at this time. The caller has the ability to control the information and how it is used. This can be especially helpful for those who want more information about the process, or who want a historical record kept in the event that s/he decides to pursue a complaint at a later date. If the person accused of the violation is named, then it could be helpful in the event that another victim files a complaint against the same person. The ombudsperson can be a listening ear as well as resource as to options and process. The important point is that the caller controls the information.

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 any person, the moderator of the Permanent Judicial Commission designates two members, who may be from the roster of former members of the Permanent Judicial Commission, to determine whether the accused should be placed on paid administrative leave during resolution of the matter. For details regarding the process by which this determination is made, see D-10.0106. Even in circumstances in which the Book of Order does not require consideration of administrative leave, any investigating committee appointed to investigate the allegations should consider whether an agreement on administrative leave is desirable, keeping in mind that the purpose of administrative leave is preventive and not punitive.

G. Request to Refer

Whenever the circumstances of an alleged offense by a teaching elder member of Presbytery involve matters or questions for which it is desirable or necessary that a higher governing body 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-4.0100 ff.

VIII. Response Procedures

In any incident of sexual misconduct there are two dimensions of 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 seek 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 Chair of the Presbytery's Response Coordination Team. The Presbytery's pastoral response will be managed by the Presbytery's Response Coordination Team.

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 investigation by civil authorities and due process or (ii) inquiry or judicial process that may be undertaken by the governing body.

1. Response Coordination Team

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:** An advisory body of up to six (6) persons, composed of ruling and teaching elders or Christian educators, to be appointed by the Moderator upon recommendation of the

Committee on Ministry, and who may serve up to six years as the Response Coordination Team. The Response Coordination Team shall elect a convener from among its members. Consideration will be given to those ruling or teaching elders of the presbytery having experience in personnel management, training, counseling, law or PCUSA polity. *(Amended 9-13-11)*

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;
- (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), and 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 whom liaisons might refer a victim, accuser, accused, or congregation 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.

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. As the first responder in these

situations, 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. In certain circumstances, the competencies of the liaison may be such that it is appropriate for the liaison to continue, beyond the assessment and referral stage, to serve in the role of accompanying the person throughout any administrative or judicial ecclesiastical processes and thus becoming an advocate (see D-10.0203 a., 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 be 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 Response Coordination Team to be sensitive to the victim's pain and need for healing and to make appropriate discretionary pastoral care available.

(2) Congregations or Employing Entity

The allegations against a teaching elder, 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 Response Coordination Team 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 governing body when an accusation of sexual misconduct has been made and the options available to the accused. The Response Coordination Team shall recommend that the accused seek legal advice immediately since the accusation could result in Church discipline or civil or criminal court action. The liaison shall direct the accused to the Stated Clerk for any information regarding the ongoing process of any judicial case.

(c) To receive legal advice and assistance. The accused may seek legal advice from any source, but it should be noted that in Church disciplinary or remedial cases “no person shall act as counsel who is not a member of the Presbyterian Church (U.S.A.)” (D-11.0301). The accused is responsible for his or her attorney fees, but if an accusation proceeds to the initiation of disciplinary case and the accused is unable to employ counsel, the accused may request appointment of counsel under the provisions of the Book of Order (D-11.0302).

(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 teaching elder 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 teaching elder. The Response Coordination Team may alert the General Presbyter to the possible spiritual, emotional, and financial needs of the family of an accused teaching elder and recommend expert resources. The Response Coordination Team shall not become personally involved with trying to meet these 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 (USA). D-10.0102

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, in consultation with the General Presbyter, an Investigating Committee. In the case of alleged sexual misconduct by a ruling elder or deacon, the clerk of session, in consultation with the pastor and/or chair of the Staff Services Committee, 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 a pastoral response from the Presbytery, the Investigating Committee may communicate that information to the Stated Clerk, who may communicate the need for additional pastoral care to the chair 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

As set forth in the definition of "Administrative Leave," a Permanent Judicial Commission must consider whether a teaching elder accused of any allegation of sexual misconduct should be placed on Administrative Leave, and when other persons covered by this policy are accused of any type of sexual misconduct as defined herein, keeping in mind that the purpose of Administrative Leave is preventative, and not punitive.

As of July 1, 2013, the Book of Order was amended in D-10.0106 to require consideration of Administrative Leave in any situation of sexual misconduct allegation. To that end this policy includes the following process.

1. The Stated Clerk will immediately communicate the receipt of an allegation of sexual misconduct to the moderator of the Permanent Judicial Commission.
2. The moderator of the Permanent Judicial Commission shall implement a process within 3 days by appointing two PJC members to determine resolution of the matter, with costs to be borne by the Presbytery.
3. The accused shall be given the opportunity to be heard in meeting with the two Permanent Judicial Commission members. The Response Coordination Team will encourage the accused to employ counsel if desired.
4. Only sexual abuse allegations are covered at this time in determination of administrative leave.
5. Every attempt will be made to reach a decision on Administrative Leave by the end of (1) one week from reporting the allegation to the moderator of the Permanent Judicial Commission.
6. Under D-10.0105 the Presbytery shall not grant a certificate of transfer to a teaching elder while any inquiry or charges are pending. Under D-10.0106 if a teaching elder is placed on Administrative Leave that person may not perform any pastoral, administrative, educational, or supervisory duties, and may not officiate at any functions such as baptism, funerals or weddings. The employing entity will provide ongoing compensation during the time of administrative leave.

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. D-10.0202f., g., i.

(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, along with the signed statement of the accused, and a settlement of consequences may be mediated. Any settlement must be approved by the Presbytery Permanent Judicial Commission in accordance with D-10.0202h.

(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. However, 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 from the appointment of the Investigating Committee, unless an extension is granted by the session or Permanent Judicial Commission. Any settlement agreement must be presented to the session or Permanent Judicial Commission for its approval, as outlined in D-10.0202h.

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. Communicating an Acquittal

Because of the harm to a person's reputation and career that can accompany allegations of sexual misconduct, the appropriate governing body or entity should report an acquittal of any such charges as fully as it deems appropriate when it is requested to do so by the accused.

8. 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-9.0101 to request an inquiry for vindication.

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

A governing body may appoint an Administrative Commission to make pastoral inquiry when judicial proceedings in a sexual abuse case end because the accused dies or renounces jurisdiction. Such an inquiry is NOT part of the church's judicial process, but the inquiry shall be empowered to receive witnesses and consider evidence, to reach a determination of the truth of the accusation, and to make a full report to the appointing governing body, including recommendations for appropriate action. See G-3.0901(b)(6).

The appointment of such an Administrative Commission should be considered when the truth-telling that accompanies this process is needed to promote the healing of those persons and congregations who have been affected by the alleged abuse.

Appendices

Signed Acknowledgment of Receipt

Teaching Elder /Employee/Staff Certification

The Michigan Child Protection Law Act 238 of 1975

Forms for Accusation

By Individual

By Member of Governing Body

Self-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 Lake Michigan, Presbyterian Church (U.S.A.), dated 3-10-2009**; 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 or with presbytery files.

Signature _____

Name _____

Date _____

Relationship to Presbytery: *Please check*

Presbytery Team or Committee _____

Volunteer Youth Leader at Event: _____

Inquirer/ Candidate for Teaching Elder

Teaching Elder

Certified Christian Educator

Commissioned Ruling Elder

Immigrant Fellowship Leader

Employee (specify work site): _____

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 governing body 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.

1

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.

DEPARTMENT OF HUMAN SERVICES: 1-800-942-4357

DISCIPLINARY PROCESS

FLOWCHART OF PROCESS

