

## POLICY: SEXUAL MISCONDUCT

### A. Introductory Statement

1. We believe that Scripture and our faith in Jesus Christ call us to standards of responsible conduct in all of life, including sexual behavior.
2. 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.
3. It is essential that the church recognize that sexual misconduct occurs and that charges of misconduct be dealt with in a forthright and frank manner. "A primary barrier to responding appropriately to sexual misconduct arises when religious leaders are not able to recognize and believe that such behavior happens. In a context of pastoral or religious trust, it is hard to recognize abusive behavior because we do not expect to see it." Section 1.130 of the Policy Statement, "Sexual Misconduct Policy and Procedures," adopted by the 205<sup>th</sup> (1993) General Assembly The purposes of this policy are to provide, among other things, the following:
  - a) Defined standards of inappropriate sexual behavior and conduct
  - b) Fair procedures and effective response to accused sexual misconduct
  - c) Education of clergy, church professionals, church employees, and church leaders with recommended policies for congregations.
  - d) It is incumbent upon the church, when sexual misconduct occurs to find ways to care for everyone involved with compassion and justice, to show the face of Christ. (Book of Order G-6.0101 and G-6.0106)

### B. Basic Principles

1. It is the policy of the presbytery that all of its clergy members, certified Christian educators, employees, and volunteers of the presbytery are to maintain the integrity of ministerial employment, and professional relationships at all times. Sexual misconduct is not only a violation of the principles set forth in Scripture (I Peter 1:15, 5:2, James 3:1), but also of ministerial, pastoral, employment, and professional relationships. Sexual misconduct is never permissible or acceptable.
2. The basic principles guiding this policy are as follows:

- a) Sexual misconduct is a violation of the trust relations of ordained and non-ordained affected members, employees and volunteers of the presbytery.
  - b) Sexual misconduct is a misuse of authority and power that breaches Christian ethical principles and violates the mandate to protect the vulnerable from harm.
  - c) If the parishioner, student, client, or employee, initiates or invites sexual conduct in the relationship, it is the pastor, counselor, or supervisor's responsibility to maintain the appropriate professional boundary.
  - d) Sexual misconduct is antithetical to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world.
3. This policy is intended for the benefit of victims of sexual misconduct who may be:
- a) individual members of a congregation;
  - b) non-members who relate to members, employees, and volunteers of the presbytery and who may be non-member counselees, those served by campus or chaplain workers or conferees or campers;
4. Those covered by this policy include the following who stand in direct relationship to the presbytery: ministers, Christian educators, and seminary students, as well as church members, church officers, and nonmembers who serve as employees or volunteers under the supervision of the presbytery or its entities.
5. Individual congregations are not covered by this policy.

C. DEFINITION OF SEXUAL MISCONDUCT: For the purposes of this policy "Sexual Misconduct" is intended to include the following three categories of sexual conduct:

- 1. Sexual Abuse shall mean any of the following:
  - a) Any misdemeanor or felony sexual contact or intimidation.
  - b) Sexual conduct or other behavior between or involving a person under 18 years of age and an adult
  - c) Sexual exploitation, which is conduct that
    - (1) allows, encourages, or requires that an adult or child engage in sexually explicit conduct for the purpose of

producing any visual, print, or electronic medium depicting such conduct;

(2) encourages or displays sexually explicit literature of a prurient nature.

2. Sexual Harassment: which shall mean unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature under circumstances in which:

a) submission to such conduct is made either implicitly or explicitly a term or condition of a person's employment or continued employment, a person's pastoral care or counseling, or a person's continued membership status or participation in an institution of the Church.

b) submission to or rejection of such conduct by a person is used as a basis for employment decisions affecting such person.

c) such conduct is severe and pervasive, measured both subjectively and objectively, and has the effect of interfering with a person's work performance or continued participation as a volunteer with an institution or entity of the Church, or of creating an intimidating, hostile, or offensive environment for work, volunteer service, pastoral care, or counseling.

3. Sexual Malfeasance: which shall mean sexual conduct within a ministerial (e.g. clergy with a member of a congregation) or professional (e.g., counselor with client, professional or employee with a member of the congregation, Mission Coordinator with a committee member) relationship. Sexual malfeasance is intended to include sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature that occurs in a ministerial or professional relationship. Sexual malfeasance does not include relationships between spouses or outside of a ministerial or professional context.

#### D. Prevention procedures

1. All clergy members of Cherokee Presbytery and clergy who perform ministerial tasks on a regular basis within Cherokee Presbytery and presbytery employees and volunteers who are involved in ministry with minors, both existing and new, are required to participate in sexual misconduct training at least every 5 years. Failure to do so will result in the clergy person being considered not in good standing and will prevent him/her from being transferred to another presbytery or assuming a position of performing ministerial tasks on a regular basis within Cherokee Presbytery.

2. Ministers of Word and Sacrament transferring into Cherokee Presbytery must present documentation of participating in sexual misconduct training within the previous 5 years or participate in a sexual misconduct training workshop within 1 year of becoming a member of Cherokee Presbytery.
3. All clergy members of presbytery, all employees and all volunteers whose primary responsibilities include working with children and/or youth on behalf of the presbytery will be required to have criminal background checks prior to assuming those responsibilities. If the background check is required specifically for ministry with children on behalf of the presbytery, the presbytery will pay for the background checks.
4. All Cherokee Presbytery employees, staff and volunteers who work with children and/or are required to have a statewide criminal or statewide sexual offender background check completed prior to beginning work and to participate in sexual misconduct training annually.
5. A minimum of two reference checks must be completed on all new employees and those volunteers who interact with children and/or youth.
6. Release forms giving Cherokee Presbytery permission to perform criminal checks on all clergy, employees, and volunteers, along with a copy of the completed background checks will be kept in secure personnel files at the presbytery office.
7. All volunteers who interact with minors must have been a member of a Presbyterian Church within the presbytery for a minimum of six months.
8. No minister member of the presbytery, presbytery employee or presbytery volunteer may be alone with any minor while on presbytery premises or in any presbytery sponsored activity except in a counseling session.

#### E. Reporting Requirements

1. Reports shall be made to the Mission Coordinator who shall notify the chair of the Committee on Ministry. Officers, supervisors, and persons highly visible to church members and visitors shall assist to make prompt referral to the Mission Coordinator. It is the responsibility of the Mission Coordinator to:
  - a) Report to the Stated Clerk all written allegations within 48 hours of their receipt;
  - b) Notify the civil authorities of the allegations;
  - c) Notify the appropriate insurance agencies of the allegations;
  - d) Be the sole spokesperson for the presbytery to the media regarding the allegations.

2. The Duty to Report: Reports shall be dealt with promptly and as matters of highest confidentiality, both before and after they have been submitted to appropriate authorities as outlined below.

a) Persons in relation with presbytery who receive the first report of misconduct shall report to the Mission Coordinator promptly who shall report the incident to civil or criminal authorities when required by law.

b) In Cases of Child Sexual Abuse:

(1) Within the presbytery, all persons covered by this policy have a duty and responsibility to report suspected child sexual abuse to the employing entity, supervisor, or governing body representative.

(2) All persons should be informed of and must comply with laws that mandate that incidents of actual or suspected child sexual abuse be reported to civil authorities.

(3) Whether clergy, elders or deacons are or are not mandated reporters in Georgia, they have an ethical responsibility, and are required by presbytery, to report incidents of actual or suspected child sexual abuse to both ecclesiastical and civil authorities. (G-6.0204a, G-6.0304b, G-6.0402b)

(4) When a written statement of an alleged offense of sexual abuse toward any person under the age of eighteen, or who it is alleged lacked the mental capacity to consent, has been received against a minister of the Word and Sacrament, 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 permanent judicial commission, to determine whether the accused shall be placed on a paid administrative leave during the resolution of the matter. The cost of such shall be borne by the employing entity whenever possible or be shared by the presbytery as necessary. While administrative leave is in effect, the minister may not perform any pastoral, administrative, educational, or supervisory duties, and may not officiate at any functions such as Baptism, funerals, or weddings. (D-10.0106)

3. Reports to Higher Governing Bodies: If the accused is in a high-level position, the accusation should be given to a person of higher level in the same body or the next higher governing body. For example, if the accused is the Stated Clerk of the presbytery, the accusation should be forwarded to the Stated Clerk of the Synod of South Atlantic.

#### F. Procedures for Responding to Accusations

1. Procedure preliminary to a disciplinary case is initiated by submitting to the clerk of session or the stated clerk of the presbytery having jurisdiction over the member (D-3.0101) a written statement of an alleged offense, together with any supporting information. The statement shall give a clear narrative and allege facts that, if proven true, would likely result in disciplinary action. Such allegations shall be referred to an investigating committee. (D-10.0201) (D-10.0101)

2. Upon receipt of a written statement of an alleged offense, the Clerk of Session or the stated clerk of presbytery, 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)

3. Once a written statement of an alleged offense has been referred to an investigating committee, the procedures outlined in D-10.0000 of the Book of Order “Disciplinary Cases” will be followed.

4. No one, except an investigating committee properly constituted by the Committee on Ministry, is authorized to conduct an inquiry into an accusation of sexual misconduct.

#### G. Principles in Responding to Accusations

1. In responding to accusations of sexual misconduct, the Church should seek healing and assure the protection of all persons respecting privacy where possible and informing participants of the procedures at the outset.

2. A fundamental principle in responding to an accusation of sexual misconduct is to ensure that the actions of the Committee on Ministry team promote and enhance the process of reconciliation and healing by effectively supporting those affected, without compromising or disrupting

a) any investigation and due process of civil authorities or

b) inquiry or judicial process that may be undertaken by the governing body.

3. Those persons affected by accusations of sexual misconduct (including both the accuser/alleged victim and the accused) often need counsel of various kinds, including therapeutic, pastoral, and legal. The Committee on Ministry shall act to assure that such assistance is available as needed.
4. Certain kinds of cases may require special handling, for example:
  - a) An accusation of child sexual abuse places a special burden on employers to assure that the possibility of additional abuse is foreclosed, which may call for suspension while the accusations are investigated.
  - b) Similarly, when accusations are made that multiple child or adult victims have suffered sexual abuse, suspension may be necessary, and more extensive counseling resources (legal and therapeutic) may be required.
  - c) Some cases may involve more than one governing body of the church (for example, when a minister against whom accusations are brought has transferred to another presbytery). In these instances, it is incumbent upon officers of the various governing bodies to cooperate fully in the handling of the complaint.
  - d) Essentially, there is no statute of limitations under the Book of Order on a claim of sexual abuse. Such a claim may be made at any time after the event; however, once an investigating committee is formed to inquire into a claim of sexual abuse, the committee must file charges (if at all) within one year of the date the committee was formed (D-10.0401a). This does not affect any applicable statute of limitations under civil or criminal law.

#### H. COM Response Teams

1. The Committee on Ministry shall appoint a response team set up to quickly and more effectively respond.
  - a) The Committee on Ministry shall arrange and conduct training of its members, at least annually. Such training will include:
    - (1) techniques and procedures for effective response to crisis situations involving accusations of sexual misconduct;
    - (2) the sharing information and experiences of members in dealing with sexual misconduct issues.
  - b) For each accusation of sexual misconduct the chair of the Committee on Ministry, in consultation with the Mission

Coordinator, shall appoint at least three members to form the COM team for that case. If the chair is unavailable or is directly involved in the particular case, the Mission Coordinator shall make such appointments

c) Because of the skills and training to be developed in issues of sexual misconduct, teams may request an additional non-COM member. No member who has served on a response team in connection with an accusation of sexual misconduct may serve on an investigating committee dealing with the same or a related accusation.

2. Role and Functions of the RT: The role of the RT is to coordinate a prompt and effective response by the presbytery to an accusation of sexual misconduct. In carrying out such a role, the RT should:

a) Notify affected persons and entities of the formation of the RT and RT's role in the matter and provide them with copies of this policy. The RT shall have discrete authority to determine when notifications are given. Delays should be avoided whenever and wherever possible in this process when appropriate, notice to the accused may include advice to the accused to have no further contact of any sort with the accuser, the alleged victim or the alleged victim's family.

b) Confirm that civil authorities have been notified if applicable.

c) Assess the needs of the affected persons, congregations, entities, agencies, and governing bodies. If inquiries as to needs are directed to those specifically affected, the role of the RT should be carefully explained. The RT shall not itself provide therapeutic or legal counsel, nor function as an investigation committee.

d) If appropriate, assign from the remaining COM membership not otherwise involved in the matter, or from other active members of the presbytery who are approved by the RT, liaisons for the accuser/victim, the accused and the congregation. Such liaisons shall assist those whom they are assigned to understand and comply with the process set out under this policy and under any process undertaken pursuant to the Rules of Discipline (D-10.0203), including, specifically, the right to counsel. The liaisons will be expected to communicate regularly with those affected parties to whom they have been assigned and to keep such parties advised of the status of the process.

e) If one has not already been submitted, secure a written statement of offense from the accuser/victim.



f) Determine the availability of resources (including persons, funding, and support services) to meet the appropriate needs of the affected persons. If necessary, these resources should be sought by the RT outside presbytery if such resources are not immediately available. Presbytery shall compile and frequently update a list of available psychological counselors, pastoral counselors, attorneys, conflict managers, and insurance advisors who will be available for assistance to the affected parties in a given case. The members of the RT also shall be available to these professionals for advice and counsel.

g) Take such action as is deemed by the RT to be reasonably necessary and prudent to assure that the needs of those affected are being met. Concerns or complaints about the provision of services should be directed to the COM chair.

h) Assure that effective steps to respond to the accusation have been initiated within 14 days of its appointment. The RT shall report verbally that the RT is fulfilling its task.

3. Limitations on Scope of RT Functions: The RT shall not engage in any of the following:

a) disclose confidential information obtained in the course of its work, including, without limitation, the identity of the parties, the substance of an accusation or evidence pertinent to an accusation except as provided by the process described herein;

b) advocate for any party involved;

c) act as legal counsel for any party involved;

d) make any determination of the guilt or innocence of the accused; or

e) become involved in any specific remedy or disciplinary action.

4. Tenure of the RT: The RT should, to the extent permitted under the Rules of Discipline should

a) Remain active in the matter until its conclusion and be available to those involved in order to hear their concerns throughout the inquiry and disciplinary process.

b) Remain available to assist the process of healing and reconciliation following the resolution of the issue.

5. No Media Contact with the RT: Any inquiries from the media regarding an incident of sexual misconduct must be directed to the Stated Clerk. Questions from the media shall not be addressed by any member of the RT.

6. Due Process Rights of the Accused: Accused persons are entitled to respect and protection. The RT shall take all necessary steps to assure that the rights of the accused are protected, as detailed in the Rules of Discipline: the right to remain silent, to be represented by counsel and, if charges are later filed, to have counsel appointed if unable to secure counsel.

7. Meeting the Needs of All Involved: When there is an accusation of sexual misconduct there are needs that have to be met for the good of all persons, groups, and entities.

a) The Needs of the Accuser/ Alleged Victim: It is the responsibility of the governing body, employing entity, and the RT to assure that adequate treatment and care are available for alleged victims of sexual misconduct and their families. The governing body, entity, and the RT should be sensitive to the alleged victim's pain and need for healing, including the following needs:

a) To be heard and taken seriously, to receive pastoral and therapeutic support, to be informed in a timely way about the process and progress with regard to the accusation, to receive legal advice, to receive healing and reconciliation if the accusation is sustained with all concerned – the individual, the family, the church, and ideally the accused.

(1) The Needs of the Accused: Presbytery shall offer care and treatment for the accused as well as alleged victims and families, meeting the needs of the accused by:

(a) Notified in writing, warning that any statements made to the RT may be used against the accused in later proceedings, informing timely about the process and need for legal advice, and the need for no person to act as counsel who is not a member of the Presbyterian Church (U.S.A.) (D-11.301). Later availability of appointed counsel is possible in disciplinary cases when the accused is unable to employ counsel Book of Order (D-11.0302).

(b) To receive personal and therapeutic support, and to receive assistance with economic security and care for the family. The COM may be of assistance

when the accused is a minister. The RT may alert the COM to the possible spiritual, emotional, and financial needs of the family of an accused minister and recommend expert resources. The RT shall not become personally involved with trying to meet these needs.

(2) The Needs of a Congregation/ Employing Entity: The governing body, employing entity, and the RT should be aware of the problems a congregation or employing entity may experience following an accusation of sexual misconduct. The accusation 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 any damage that may be done to the congregation or organization. The following are some of the needs.

b) To receive pastoral care, information about the case and opportunities to receive information and to vent feelings and express themselves in search of healing, and to have available resource persons who can discuss legal aspects of a case and advise the congregation/employing identity about any exposure to liability coverage.

(3) The Needs of Presbytery: Include the following

(a) a) To receive legal advice from a Presbyterian familiar with Presbyterian polity, civil procedure, and the legal issues found in sexual tort, sexual harassment, and child abuse cases.

(b) To provide training and education about sexual misconduct and the Policy and procedures of presbytery.

(c) All minister members, certified Christian educators, and professional staff members of presbytery and all persons who serve on the COM shall be required:

(i) to attend training on sexual misconduct as provided by presbytery; and

(ii) to acknowledge in writing the receipt of a copy of this policy.

(b) To secure risk management advice and liability insurance.

I. Conclusion

B. After all the procedures outlined above have been carried out, the RT shall insure that an evaluation is prepared and presented to the appropriate persons and groups involved in the response to the allegation of misconduct.

J. Implementation

1. Each session will have no more than one (1) year from the date of the adoption of this policy by presbytery to develop and approve its own congregation's policy.
2. A current copy of each congregation's policy shall be kept on file at the presbytery office. Modifications or updates shall be forwarded to the presbytery in a timely manner.
3. The implementing words of a congregational policy may vary but the basic concepts of this policy are the minimum that must be included.
4. The Committee on Ministry is prepared to consult and assist any session as it drafts its own policy.

K. Definitions

1. ACCUSATION is a statement or claim that an offense may have occurred. It must be put into writing by the alleged victim or accuser for it to be acted upon. (See "Statement of Offenses.")
2. ACCUSED is the term used to represent the person against whom an accusation of sexual misconduct is made.
3. ACCUSER is the term used to represent the person claiming knowledge of sexual misconduct by a person covered by this policy. The accuser may or may not be the alleged victim. A person such as a family member, friend, or colleague of the victim may be the accuser whose information initiates a response.
4. ALLEGED VICTIM is the term used to identify the person whom may have been subjected to sexual misconduct.
5. CHARGE is a specific accusation made to the proper governing body.
6. CHURCH when spelled accusation made to the proper governing body.
7. COM refers to the Committee on Ministry of the Presbytery.

## 8. DEGREE OF EMPHASIS

- C. may – a discretionary action
- D. must – a mandatory action
- 1. shall – a mandatory action
- 2. should – a recommended action

9. **DISCIPLINE** is the exercise of the pastoral and moral rule of a governing body. The purpose of discipline is not punitive but redemptive and reconciliatory with the goal of restoration. Restoration does not automatically imply reinstatement to a previously held office or position. Restoration primarily refers to the full membership and fellowship in the body of Christ, the church.

10. **EMPLOYEE** is the comprehensive term used to cover individuals who are hired or called to work by a governing body or one of its entities for salary wages.

11. **ENTITY** is the term used to refer to any program or office managed by a board committee, council, or other body whose total or partial membership is elected by a governing body.

12. **GOVERNING BODY** is a representative body composed of elders and Ministers. These are sessions, presbyteries, synods, and the General Assembly. A governing body may establish entities such as day care centers, conference centers, camps, or homes for the aged. A governing body may have both church members and non-members as employees.

13. **INQUIRY** is the term used in the Rules of Discipline (D-10.0201) to refer to a function of an investigating committee to determine whether charges should be filed.

14. **INVESTIGATING COMMITTEE** is a committee designated by a governing body to conduct an inquiry into an alleged offense and to carry out those functions set forth in Chapter 10, Book of Order.

15. **LIAISON** is a designated person who may be assigned by the Response Coordination Team (RT) to the accused, accuser, and/or alleged victim, who is to help the person to whom she/he is assigned understand and follow the process set out in this policy.

16. **MINISTER OR PASTOR** refers to one who is ordained to specific pastoral ministry within a congregation or to specialized ministry.

17. **PARISHIONER** is an individual who is a member of a particular congregation or someone who is relating to the minister as “pastor” as in a non-member counseling or conference setting. For clergy serving in specialized ministries, “Parishioner” is any person receiving the benefit of

the exercise of the office of ministry (e.g., chaplain, pastoral counselor, campus minister, etc.)

18. PRESBYTERY, when capitalized, refers to the Cherokee Presbytery.

19. PROFESSIONAL STAFF describes those staff members who lead specific programmatic ministries for a congregation or Presbytery but are not ordained as Ministers. Such workers would include church musicians, directors of Christian education, youth directors, etc.

20. RESPONSE TEAM (RT) is a team of at least three members appointed by the COM from its membership to respond to accusations of sexual misconduct.

21. STATEMENT OF OFFENSE is a written statement of an allegation of sexual misconduct (See D-10.0103). A written statement of offense directed to the stated Clerk of Presbytery is necessary in order to refer such claim to an investigating committee.

22. VICTIM is the term used to designate someone who has been found, after due process, to have been subjected to sexual misconduct.

23. VOLUNTEER is the term used for one who provides services for Presbytery or its entities and receives no benefits or remuneration. This policy treats volunteers in the same way as employees. Volunteers include persons elected or appointed to serve on boards, committees, and other groups.

#### L. Resource List

1. Model Presbytery Sexual Misconduct Policy - OGA Constitutional Services Polity Reflections Note #9.
2. Cherokee Presbytery "CODE OF ETHICS FOR PRESBYTERIAN MINISTERS OF THE WORD AND SACRAMENT."
3. General Assembly "STANDARDS OF ETHICAL CONDUCT" 210th GA (1998).
4. Monograph, "A Code of Ethics for Presbyterian Ministers", Alan S. Gripe, The Vocation Agency, 1986.
5. "WE WON'T LET IT HAPPEN HERE: Preventing Child Sexual Abuse in the Church". PDS 72-650-97-0026.
6. "REDUCING THE RISK OF CHILD SEXUAL ABUSE IN YOUR CHURCH" (Video, Guidebook, Workshop Leaders Manual). Church Ministry Resources.

7. "SELECTING AND SCREENING CHURCH WORKERS: A Brief Introduction". A Two Step Risk Management Program from Church Law & Tax Report and Pinkerton Services Group. Church Ministry Resources.
8. "Betrayal of the Pastoral Relationship: Sexual Contact by Pastors and Pastoral Counselors", Marie M. Fortune
9. "IS NOTHING SACRED", Marie M. Fortune, Pilgrim Press, 1989



I \_\_\_\_\_ (print name), hereby  
certify that I have read the Cherokee Presbytery Sexual Misconduct Policy and agree to  
abide by its standards and requirements.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Witnessed by: \_\_\_\_\_ (print name)

\_\_\_\_\_ (signature)