

Presbytery of the Northeast Sexual Harassment & Misconduct Policy

Provisional 03/13/2021

Introduction

This policy applies to all employees, applicants for employment, contractors, interns, and volunteers of the Presbytery of the Northeast.

It is the policy of the Presbyterian Church (U.S.A.) (hereinafter referred to as PC(USA)) that all church members, church officers, and non-member employees, and volunteers of the Presbytery of the Northeast are to maintain the integrity of the ministerial, employment, and professional relationship at all times. Persons who engage in sexual misconduct are in violation of the principles set forth in Scripture, and also of the ministerial, pastoral, employment, and professional relationship. It is never permissible or acceptable for a church member, officer, employee, or volunteer to engage in sexual misconduct and will not be tolerated by the Presbytery.

The ethical conduct of all who minister in the name of Jesus Christ is of vital importance to the church because through these representatives an understanding of God and the gospel's good news is conveyed. "Their manner of life should be a demonstration of the Christian gospel in the church and in the world" (*Book of Order*, G-2.0104a).

The basic principles of conduct guiding this policy are as follows:

1. Sexual misconduct is a violation of Presbytery employees, contractors and volunteers, who are called upon to exercise integrity, sensitivity, and caring in a trust relationship. It breaks the covenant to act in the best interests of the entire Presbytery community.
2. Sexual misconduct is a misuse of authority and power that breaches Christian ethical principles by misusing a trust relation to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. If a presbytery employee initiates or invites sexual content in the relationship, it is the Presbytery's responsibility to maintain the appropriate role and prohibit a sexual relationship.

3. Sexual misconduct takes advantage of the vulnerability of persons who are less powerful to act for their own welfare. It is antithetical to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world. It violates the mandate to protect the vulnerable from harm.
4. Sanctions will be enforced with Presbytery employees or contractors engaging in sexual harassment and against officers or supervisors who knowingly allow such behavior to continue.

Definition

Sexual harassment/misconduct is defined as unwelcome behavior that ridicules, demeans, insults and/or impedes a person's employment performance or volunteer service because of the person's gender and/or sexual orientation. Behavior which violates this policy includes but is not limited to:

- Punishing or threatening to punish an employee or volunteer for rejecting sexual attention, requests, and/or demands.
- Coercing or attempting to coerce a person into a sexual and/or a dating relationship.
- Using spiritual or appointed authority to coerce or attempt to coerce, persuade, or mislead a person to enter into sexual behavior.
- Basing or influencing employment decisions or volunteer service on a person's rejection or acceptance of sexual behavior.
- Making unwelcome sexual jokes, comments, suggestions, innuendoes.
- Unwelcome touching, standing close to, blocking of path.
- Unwelcome prolonged or suggestive staring.
- Displaying sexual visuals, visuals that insult, degrade and/or exploit sexuality of men or women, and
- Creating a hostile, offensive, or intimidating work/volunteer environment.
- Using technology that results in sexually harassing or abusing another person, including texting or emailing suggestive messages and images to persons.

Sexual harassment and gender-based harassment are forms of sexual discrimination and a violation of Presbytery and denominational AA/EEO policies. In addition, they are a violation of Title VII of the 1964 Civil Rights Act, as amended in 1972 and state fair employment laws. The Presbytery is incorporated in the State of New Jersey, and therefore the Human Rights Law (HRL).

Responsibilities of the Synod for employees' work and volunteers' gathering spaces within the Synod

- To encourage employees and volunteers to set a personal example of avoiding sexual or gender-based harassment.
- To monitor the workplace and all synod gatherings to ensure sexual and gender-based

harassment are not occurring.

- To explain to all employees at the time they are hired that sexual or gender-based harassment will not be tolerated.
- To take actions to stop all sexual and gender-based harassment, i.e. tell the staff person or volunteer doing sexual and/or gender-based harassment to stop. Contact the Presbytery Leader for assistance.

Synod Response to Allegations of Sexual Misconduct

A. Principles

In responding to allegations of sexual misconduct the Presbytery should seek healing and assure the protection of all persons. The privacy of persons should be respected, and confidentiality of communications should be maintained. Additionally, the Synod should seek to uphold the dignity of all persons involved, including persons who are alleging harm, persons who are accused of sexual misconduct, and the families and communities of each.

The Presbytery has jurisdiction over its employees such that if a person is alleged to have committed an offense against Scripture or the PC(USA) Constitution, the Presbytery has the duty to inquire into the allegations and, if the allegations are proven, to correct the behavior of the employee and ensure the safety of others in the community. Allegations of sexual misconduct are always considered allegations of offense against Scripture or the PC(USA) Constitution that trigger the disciplinary processes of the PC(USA) set forth in the *Book of Order*. In the case of volunteers, the individual will be covered by the procedures of the sexual harassment policy of their Session or Presbytery.

If the person accused of sexual misconduct is no longer an officer or employee of the Presbytery, but the conduct occurred while employed, the Synod does not have jurisdiction to correct the behavior, but it does have a duty to hear the allegations of offense and to take measures to prevent future occurrences of harm.

B. Reporting Requirements

1. Reporting Sexual Misconduct

A person needing to report that an officer, employee, or volunteer of the Presbytery has committed sexual misconduct is encouraged to seek guidance from the Presbytery Leader regarding filing the report. If the report concerns the conduct of the Presbytery Leader, the person should seek guidance from the Presbytery Stated Clerk.

2. Receiving Reports of Sexual Misconduct

Reports of allegations of sexual misconduct can occur in a variety of ways.

Because the synod cannot control to whom the victim of sexual misconduct will speak first, it is important that officers, employees, and members of the Vision Team understand how reports of incidents are channeled to the proper person. It is the duty of those named to see that any allegation of sexual misconduct is reported appropriately keeping in mind the mandatory reporting requirements for allegations of child abuse.

Reports of allegations of sexual misconduct should never be taken lightly or disregarded and allowed to circulate without concern for the integrity and reputation of the victim, the accused, and the church. Reports of allegations should be dealt with as matters of highest confidentiality, both before and after they have been submitted to appropriate authorities as outlined below.

The first person to learn of an incident of sexual misconduct should not undertake an inquiry alone or question either the victim or the accused unless the incident is divulged in the process of pastoral care, counseling, or a therapy session. If the victim is hesitant to talk to the Presbytery Leader or Presbytery Stated Clerk, the person who has received the initial report has a special pastoral responsibility to build trust and willingness to speak with the accuser, lest the Synod be unable to respond because no one is able to give firsthand information.

If the report is made orally, the person receiving the report of allegations should request that the person making the report of allegations place it in writing on the attached form. A report of allegations of sexual misconduct in writing from a member of the PC(USA) alleging another member or officer of the PC(USA) committed an offense must be acted on according to the Rules of Discipline of the *Book of Order*. If the Presbytery Leader or Presbytery Stated Clerk receives a report of allegations in writing from a nonmember of the PC(USA) alleging another employee or volunteer of the Synod committed sexual misconduct, the report also should be acted on according to the Rules of Discipline of the *Book of Order*. If the person who makes the report is unwilling or unable to place it in writing, the Presbytery Leader or Presbytery Stated Clerk may make the written statement that will automatically trigger the Rules of Discipline of the *Book of Order*.

3. Complaint Procedure for Accused Covered by Book of Order

When an allegation of offense of sexual misconduct concerning a Synod employee has been received by the Presbytery Leader or Presbytery Stated Clerk a report will be provided to the Synod Leadership Team stating that an offense has been alleged and that the synod will proceed according to the procedures set forth in the Rules of Discipline of the *Book of Order* and in this policy. The Presbytery shall appoint an investigating committee. The investigating committee must promptly begin its inquiry into the allegations. Delay may cause further harm to the victim and/or the

accused.

The Presbytery must cooperate with civil authorities in an investigation of child sexual abuse or other criminal sexual misconduct. Church disciplinary proceedings cannot interfere with a criminal investigation by civil authorities and may have to be suspended until these are completed.

The Presbytery has responsibility in this policy for all Presbytery employees who may be involved in an allegation of sexual harassment or misconduct.

A presbytery has original jurisdiction in disciplinary cases involving Presbytery volunteers who are teaching elders.

The session has original jurisdiction in disciplinary cases involving Presbytery volunteers who are members, ruling elders, and deacons of the church.

All complaints should be handled immediately. If an allegation is made against a church member volunteer, the Presbytery Leader will promptly notify the session.

4. Complaint Procedure for Accused Not Covered by Book of Order

When the Synod receives an accusation of offense of sexual misconduct against an employee or volunteer who is not a member of PCUSA, the procedural response will be guided by this policy and well as the Presbytery's written personnel policies.

In responding to the allegation of offense of sexual misconduct, the Presbytery Leader or Presbytery Clerk will do the following:

- a. Determine whether or not the allegation gives rise to a reasonable suspicion of sexual misconduct by the accused. If so, notify the Personnel Advisory Team of the Complaint immediately.
- b. Gather additional information necessary to make a decision about correcting the behavior.
- c. Determine any remedies, including limiting ministry, suspension, or termination necessary and advisable under the circumstances. If the accused is a member of another denomination, that denomination will be notified of the allegations and the response.
- d. Inform the victim and the accused of the remedy.
- e. In all cases, the Presbytery Leader in consultation with the Personnel Committee.

Team shall determine whether charges are to be filed. The Presbytery Leader shall prepare a written report, which shall be included in the accused's permanent personnel file. The accused shall be allowed to attach any written statements to said documents, also for permanent inclusion in the permanent file.

5. Retaliation

Unlawful retaliation can be any action that could discourage an employee or volunteer from coming forward to make or support a sexual harassment claim. Such retaliation is antithetical to the Gospel and the Book of Order as well as unlawful under Federal and State law.

6. Record Keeping

The Presbytery Leader, Presbytery Clerk or the Presbytery investigating committee will keep detailed records of its actions and minutes of its deliberations and its conversations with the accuser, the accused, and other parties involved, correspondence, and copies of the reports received from committees or commissions. Such records will be kept confidential as far as possible. In Case # 208-6, the General Assembly Permanent Judicial Commission (GAPJC) interpreted the Rules of Discipline to say that a council or entity may share the contents of inquiry reports with other councils or entities of the PC(USA) when necessary. The Presbytery Leader or Presbytery Stated Clerk will maintain the records while the inquiry is in process.

Training and Compliance with the Policy

On an annual basis all employees and Presbytery volunteers will receive a copy of this policy and sign a form which acknowledges the policy and states the signer is in compliance. In addition, Presbytery employees will review the training video supplied by New Jersey or another video that meets the minimum standards of the State training video.

**Presbytery of Northeast
Sexual Harassment Complaint Form**

If you believe that you have been subjected to sexual harassment, you are encouraged to complete this form and submit it to the Presbytery Leader or Presbytery Stated Clerk. You may email your copy to the Presbytery Leader or the Presbytery Stated Clerk. You may also mail your complaint to the Presbytery of the Northeast at 340 W. Passaic Street 3rd Floor, Rochelle Park, NJ 07662. You will not be retaliated against for filing a complaint.

If you are more comfortable reporting verbally or in another manner, the Presbytery Leader or Presbytery Stated Clerk should complete this form, provide you with a copy and follow the Synod's sexual harassment prevention policy by investigating the claims as outlined at the end of this form.

COMPLAINANT INFORMATION

Name:

Work Address:

Work Phone:

Job Title:

Email:

Select Preferred Communication Method: Email Phone In person

COMPLAINT INFORMATION

1. Your complaint of Sexual Harassment is made about:

Name:

Title:

Work Address:

Work Phone:

Relationship to you: Supervisor Subordinate Co-Worker Other

2. Please describe what happened and how it is affecting you. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual harassment occurred:

Is the sexual harassment continuing? Yes No

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

The last question is optional but may help the investigation.

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

If you have retained legal counsel and would like us to work with them, please provide their contact information.

Signature: _____

Date: _____

Instructions for Employers

If you receive a complaint about alleged sexual harassment, follow your sexual harassment prevention policy.

An investigation involves:

- Speaking with the employee
- Speaking with the alleged harasser
- Interviewing witnesses
- Collecting and reviewing any related documents

While the process may vary from case to case, all allegations should be investigated promptly and resolved as quickly as possible. The investigation should be kept confidential to the extent possible.

Document the findings of the investigation and basis for your decision along with any corrective actions taken and notify the employee and the individual(s) against whom the complaint was made. This may be done via email.