

St. Andrew Presbyterian Church, Denton, Texas

Policy and Procedures Regarding Allegations of Sexual Misconduct

PURPOSE

The ethical conduct of all persons who minister in the name of Jesus Christ is of vital importance to this church because through these representatives an understanding of God and the Gospels' good news is conveyed. It is the policy of this church, therefore, that all church members, church officers, pastors, teaching elders, ruling elders, deacons, employees and volunteers working in, with and for this church are to maintain the integrity of ministerial, employment, and professional relationships at all times. Sexual misconduct violates these relationships and is never permissible or acceptable. It is incumbent upon the church, if allegations of sexual misconduct arise, to respond promptly, but with compassion and justice toward those involved.

PERSONS AND CIRCUMSTANCES COVERED

- A. Persons covered by this policy are all persons employed by or seeking employment with the church, all volunteers of the church (while acting on its behalf), pastors, teaching elders, ruling elders, deacons and other representatives of the church.
- B. This policy covers those who are accused of sexual misconduct under the following two circumstances:
 - 1. Where access to the alleged victim/accuser by the accused is related to the accused performing some form of service to or appointment by a committee, group, council, or board of the church.
 - 2. When the behavior of the accused, though not conducted in a church-related setting, raises questions for the church regarding the character and effectiveness of the accused.

SEXUAL MISCONDUCT

Sexual misconduct as used in this policy, includes:

- A. Child sexual abuse, as defined in the Appendix. (Child sexual abuse is further governed by the policy contained in the church's *Policies for the Protection of Children, Youth & At-risk Adults.*)

- B. Sexual abuse of the elderly and persons with disabilities, as defined in the Appendix. (Sexual abuse of the elderly and persons with disabilities is further governed by the policy contained in the church's *Policies for the Protection of Children, Youth & At-risk Adults.*)
- C. Sexual harassment, as defined in the Appendix. (Procedures regarding allegations of sexual harassment are further governed by the Unlawful Harassment policy contained in the church's *Personnel Manual.*)
- D. Rape or sexual contact by force, threat, intimidation, or misuse of power in a trust relationship.
- E. Sexual conduct that is unwelcome and/or repeated when the person engaged in the conduct knows or has been informed that the conduct is unwelcome or offensive to the recipient, including, but not limited to: sexual advances; requests for sexual favors, and other kinds of verbal or physical conduct of a sexual nature, such as obscene or suggestive language or behavior; use of church property, computers and other equipment for sexual or pornographic purposes; unacceptable visual contact, touching or fondling.
- F. Sexual conduct within a pastoral (e.g., clergy with a member of the congregation) or professional relationship (e.g., counselor with a client), lay employee with a church member, officer or representative with a church member (or other person who may be a lay person, a teaching or ruling elder, or deacon), including sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature. This definition does not apply to relationships between spouses or between other adults in committed relationships.
- G. Sexual misconduct as used in the policy is intended to include any conduct that would come within the meaning of "sexual abuse" as used in the Rules of Discipline of the Presbyterian Church (U.S.A.).

PRINCIPLES AND STANDARDS OF CONDUCT

- A. Sexual misconduct is a misuse of authority and power that breaches Christian ethical principles by misusing a trust relationship to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. Even if someone such as a parishioner, client, employee, or student initiates or invites sexual content in the relationship, it is always the responsibility of the pastor, teaching or ruling elder, deacon, officer, employer, volunteer counselor, supervisor, teacher, or adviser to prohibit a sexual relationship.

- B. Sexual misconduct is a violation of the role of pastor, teaching and ruling elder, deacon, officer, employer, volunteer, counselor, supervisor, teacher, or adviser of any kind who is called upon to exercise integrity, sensitivity, and caring in a trust relationship. Sexual misconduct is also a violation of the covenant to act in the best interest of persons such as parishioners, clients, co-workers, employees, and students.
- C. Sexual misconduct takes advantage of the vulnerability of children and persons who may lack the power to protect themselves from such misconduct. Sexual misconduct is antithetical to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world. Sexual misconduct violates the mandate to protect the vulnerable from harm.
- D. For the above reasons, sexual misconduct is prohibited by this church and will never be condoned or tolerated.

SUSPECTED ABUSE RESPONSE PERSONS

A. Purpose and Function

Suspected Abuse Response Persons are appointed by this church as persons to whom reports or allegations of sexual misconduct will be made, and whose function it is to receive and quickly and objectively respond to reports of sexual misconduct by persons covered by this policy. The Suspected Abuse Response Persons' first priority will be to seek to provide support for the alleged victim/accuser as he or she decides how to resolve the situation, as well as to exhibit appropriate and professional concern for the protection of the rights of the accused.

It is not intended that the response persons will offer medical, psychological, or legal advice as to either secular or church law; and the Suspected Abuse Response Persons are in no way to serve as, or as a substitute for, legal counsel for any person. Per the Rules of Discipline of the Presbyterian Church (U.S.A.), Suspected Abuse Response Persons will neither initiate church disciplinary proceedings nor be available to testify in church disciplinary proceedings arising from an accusation of sexual misconduct.

B. Suspected Abuse Response Persons

This church's primary Suspected Abuse Response Persons are the **Senior Pastor** and **Associate Pastor**, either of whom may individually receive allegations of sexual misconduct.

If the church's primary Suspected Abuse Response Persons are not reasonably available at the time that an allegation of sexual misconduct arises, the following persons, in order, are approved by this church as persons authorized to receive such allegations and serve as Suspected Abuse Response Persons.

1. **Clerk of Session**
2. **Moderator of the Personnel Committee**

The Suspected Abuse Response Persons shall be fully familiar with this policy, the policy contained in the church's *Policies for the Protection of Children, Youth & At-risk Adults*, the policy governing Unlawful Harassment contained in the church's *Personnel Manual*, and the policy governing church-member behavioral offenses titled *Expectations of Members*; and receive training in responding to allegations of sexual misconduct under these policies. Such training will include becoming familiar with the legal, administrative, secular, and ecclesiastical policies and procedures for dealing with allegations of sexual misconduct.

NEEDS OF THOSE INVOLVED

A. Victims and Families

The Suspected Abuse Response Person receiving an allegation of sexual misconduct shall endeavor to assure that adequate treatment and care are available to the victims of alleged sexual misconduct and their families. If the victim or family at first refuses help, the Suspected Abuse Response Person shall remain available to offer help. Above all, this church shall not act in a self-protective manner by ignoring victims and their families.

The extent of the damage to the victims of sexual misconduct will vary from person to person. The Suspected Abuse Response Person is to assume in all cases that the victim is experiencing pain, whether or not the allegations and accusations are deemed truthful and must endeavor to make appropriate pastoral care available.

The following may be some of the needs of the alleged victim/accuser:

1. To be heard and taken seriously.
2. To receive protection and care if the victim, for whatever reason, is unable to care for him- or herself. To be assured that justice within the church judicial process will be pursued.
3. To be informed about the church judicial process as well as progress regarding the accusation.
4. To receive pastoral care.
5. To receive healing and reconciliation.
6. To be informed of the right to consult legal counsel.

B. Congregations

The Suspected Abuse Response Person should be aware of the problems a congregation may experience as a result of allegations of sexual misconduct on the part of a pastor, teaching elder, ruling elder, deacon, employee, congregation member, or volunteer. The allegations may polarize the congregation, damage morale, and create other serious internal problems. Efforts should be made to recognize any resulting problems and mitigate the damage done to the congregation.

C. The Accused

The Suspected Abuse Response Person shall be mindful that any accused is to be presumed innocent until an investigation shows otherwise. Appropriate consideration, including confidentiality, should be shown to the accused as well as to alleged victims and their families.

If the accused is a pastor or other teaching elder, the clerk of session shall assume the responsibility of informing the presbytery's permanent judicial commission about the allegation.

Confidentiality for the victim demands that the accused may only be approached by the Suspected Abuse Response Person if the sexual misconduct response person is given permission to do so by the alleged victim.

There may be circumstances, such as when there is suspicion of abuse of a child, elderly person, or person with disabilities, when both ecclesiastical and secular law require that the suspected abuse be reported to secular authorities, including the State of Texas Department of Family and Protective Services and state or local law enforcement.

If the accusation proceeds to the initiation of an ecclesiastical disciplinary case, the provisions of the Rules of Discipline of the Presbyterian Church (U.S.A.) shall be followed.

D. The Non-Victim Accuser

A person other than the alleged victim, such as a parent, guardian, or other advocate for a person who has been the alleged victim of sexual misconduct, may be an accuser. In the case of a child, his or her minority status requires involvement of an adult to act on the child's behalf. The Suspected Abuse Response Person shall be aware that a non-victim accuser may also have some of the same needs as a victim.

RESPONSE PROCEDURES

Any person with a complaint or report of sexual misconduct or a question involving this policy may contact a Suspected Abuse Response Person at the address of this church.

Reports of sexual misconduct will never be taken lightly or disregarded. Because information or rumors relating to such reports may affect the integrity and reputation of the accuser, the accused, the victim, and the church, reports of sexual misconduct should remain highly confidential both before and after they have been submitted to the appropriate authorities.

The following procedures shall be followed in response to reports of sexual misconduct:

A. Notifying Those with a Need to Know

If an allegation of sexual misconduct is received by a Suspected Abuse Response Person, that person will at a minimum ensure that the following church-related persons are aware of the allegation having been raised: the senior pastor, the clerk of session, the church's insurance carrier, and the church's legal counsel, if any.

B. Subsequent Response

Once a Suspected Abuse Response Person is made aware of a sexual misconduct complaint, a review will begin promptly. The Suspected Abuse Response Person will contact the alleged victim/accuser and offer support on behalf of the church. Because the role of the Suspected Abuse Response Person is to support, educate, and listen compassionately, such person will treat all information as confidential except information that must be reported under ecclesiastical and secular law.

The Suspected Abuse Response Person's task is to provide a safe place for the alleged victim/accuser to describe what has happened and to explore options available to him or her within the church for dealing with what has happened. The decision for future action rests with the alleged victim/accuser. The goal of the Suspected Abuse Response

Person familiar with the church's policy and procedures on sexual misconduct will be to provide accurate information, so that the alleged victim/accuser can make an educated decision.

The alleged victim/accuser may or may not choose to pursue further help from the Suspected Abuse Response Person. Based upon information received from the alleged victim/accuser, the Suspected Abuse Response Person may recommend that the alleged victim/accuser seek consultation with a professional (e.g., medical, legal). If such a recommendation is made, appropriate referrals may be provided if available.

If the accuser is not the alleged victim, the Suspected Abuse Response Person will encourage the accuser to tell the alleged victim about the services available through the church. The accuser will also inform the alleged victim of the accuser's intent to bring accusations to the attention of the Suspected Abuse Response Person, and the accuser will inform the Suspected Abuse Response Person as to whether the victim objects to the making of such accusations.

In some cases, the alleged victim/accuser may ask the Suspected Abuse Response Person to contact the accused. Before doing so, the Suspected Abuse Response Person should have received a signed and dated authorization for release of information.

The alleged accuser/victim shall decide whether or not to file disciplinary charges under the Rules of Discipline of the Presbyterian Church (U.S.A.). Should the accuser/victim decide to file charges, and if the accused is a pastor or other teaching elder, the accuser/victim will be informed by the Suspected Abuse Response Person how to contact the stated clerk of the presbytery to initiate such a process. Should the accuser/victim decide to file charges and the accused is a ruling elder, deacon, employee, congregation member, or volunteer, the Pastor and clerk of session shall charge session with creating a three-member committee made up of non-staff, non-session members of the church, including at least one male and one female, to investigate the alleged misconduct, review evidence, and make a recommendation to the session as to the matter's resolution. The Suspected Abuse Response Person's continued involvement at this point will be determined by the needs of the accuser for continued support.

When any allegation of sexual misconduct is made, the moderator or clerk of session shall inform both the session and the Executive Presbyter of Grace Presbytery that such an allegation has occurred, and thereafter report to session and the Executive Presbyter on the status of the allegation, including any ensuing investigation, up to and including its resolution.

C. Written Records

If the alleged victim/accuser chooses to proceed and requests the sexual misconduct response person's continuing involvement, an adult alleged victim or non-victim accuser will be asked to complete a Suspected Abuse Incident Report, sign and date the report, and attach any supporting documentation. The alleged victim/accuser will maintain ownership and possession of this document pending any future investigation/proceedings. The alleged victim may wish to be in counseling during this process to receive additional emotional support.

Any records kept by the Suspected Abuse Response Person will be confidential. Such records should be kept in a locked space and should be shredded when the contact with those involved has ended, but only after consultation with legal counsel. These records may include names, dates of contact, recommendations, and personal notes.

D. Reporting Child Sexual Abuse and Sexual Abuse of the Elderly and Persons with Disabilities

The Suspected Abuse Response Person must be familiar both with ecclesiastical and state law regarding the reporting of both child sexual abuse and the sexual abuse of the elderly and persons with disabilities. If the Suspected Abuse Response Person suspects that child sexual abuse or sexual abuse of an elderly person or person with disabilities has occurred, the Suspected Abuse Response Person will help the victim/accuser understand and comply with state laws regarding incidents of actual or suspected child abuse or abuse of the elderly or persons with disabilities and the reporting of such incidents. The Suspected Abuse Response Person will advise the victim/accuser to seek legal advice regarding bringing criminal charges and will report the abuse to the presbytery for further action consistent with state law. See the church's *Policies for the Protection of Children, Youth & At-risk Adults* for specific guidance.

Whether or not the accuser agrees, the Suspected Abuse Response Person, if a member of the ordered ministries, or a certified Christian educator, is subject to and will comply with all secular laws with regard to actual or suspected child sexual abuse or the sexual abuse of the elderly or persons with disabilities, including mandated reporting related to such incidents.

E. Suspension of the Accused

For the protection of those involved, a pastor or other teaching elder, ruling elder, deacon, employee, volunteer and others who may be the subject of an accusation shall be suspended from participating in any church program or ministry involving children,

youth, or at-risk adults, including elderly persons, persons with disabilities, and emotionally vulnerable persons receiving pastoral care, pending resolution of the matter. If the matter involves a pastor or other teaching elder, the terms of the suspension will be agreed upon by the presbytery and the session of the church, with particular attention paid to the provisions of the Rules of Discipline of the Presbyterian Church (U.S.A.) regarding administrative leave in such circumstances.

F. Compliance with Secular Authorities

The church shall cooperate with secular authorities in their investigations of child sexual abuse or the sexual abuse of the elderly or persons with disabilities or other criminal misconduct. Church proceedings shall not interfere with a criminal investigation by civil authorities. The church proceedings may have to be suspended until secular investigations are completed.

G. Disciplinary Action

Investigatory findings of sexual misconduct will result in disciplinary action, up to and including removal from volunteer activity or termination of employment.

RISK MANAGEMENT

A. Implementation

The church will take appropriate steps to inform its members, employees, staff, and volunteers of the standards of conduct and the procedures for effective response to be carried out if a report of sexual misconduct is received.

Clergy associated with the church must be aware of how state law regarding clergy confidentiality intersects with state law on child sexual abuse and sexual abuse of the elderly and persons with disabilities and reporting obligations.

B. Liability and Insurance

The church may potentially be liable for damages for harm caused by sexual misconduct on the part of a pastor, employee, staff member, volunteer or other persons acting on its behalf.

The church should obtain liability insurance covering sexual abuse and regularly inform the liability insurer of the activities and programs it operates and sponsors, particularly programs whose staff may be in high-risk occupations. The church should promptly

bring to the attention of its liability insurers additions or deletions of such activities or programs.

C. Volunteers

Volunteers acting on behalf of the church are subject to this policy. An appropriate screening procedure shall be established by the church before permitting the volunteer to work in *loco parentis* with children, including criminal background checks before such persons are assigned to work with children.

D. Resources

The church's Suspected Abuse Response Persons will become generally familiar with resources, counselors, advisors, medical and legal persons, and other resources available in the greater area of the church to serve and support victims of alleged sexual misconduct, so as to be able to provide references to such resources if and as needed.

EMPLOYMENT PRACTICES

A. Record Keeping

The church shall maintain a personnel file containing documents related to this policy for every employee, volunteer, and teaching elder.

B. Pre-screening Applicants

Pre-employment screening shall include a background check plus specific questions related to discovering previous formal charges of sexual misconduct and the resolution thereof.

An applicant shall be informed of any reports of sexual misconduct and shall be given an opportunity to submit additional references or to give other evidence to correct or to respond to harmful information obtained from a reference prior to a final decision being made on the applicant.

C. Regarding Associations with Children

Staff, ruling and teaching elders, volunteers, youth leaders, schoolteachers, and others regularly associated with children and youth of the church shall have submitted to relevant background checks and clearances before being associated with children and

youth. The reports of such clearances shall be maintained by the church for as long as the adult works with the children and youth and for six (6) years thereafter.

D. Regarding Associations with Disabled and Elderly

Staff, ruling and teaching elders, volunteers, youth leaders, schoolteachers, and others regularly associated with disabled and elderly of the church shall have submitted to relevant background checks and clearances before being associated with this group. The reports of such clearances shall be maintained by the church for as long as necessary.

APPENDIX: DEFINITIONS

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

Accuser is the person claiming knowledge of sexual misconduct by a person covered by 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 victim may be the accuser whose information initiates an inquiry.

Adults are persons who are eighteen (18) years of age or older.

Child is a person under eighteen (18) years of age.

Child Sexual Abuse includes, but is not limited to, any contact or interaction between a child and an adult when the child is being used for the sexual stimulation of the adult or of a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult is always considered forced whether or not consented to by the child.

Disabilities include mental, physical, or intellectual or developmental disabilities that substantially impair a person's ability to provide adequately for his or her care or protection.

Elderly persons are those persons sixty-five (65) years of age or older.

Employee is the comprehensive term used to cover individuals who are hired or called to work for this church for salary or wages.

High-Risk Occupation is that which calls for a person to work in close contact with those who are vulnerable and less capable of protecting themselves, such as children, elderly persons, those who are wholly or partially incapacitated, or clients who are having emotional or personal problems.

Investigation is the term generally used by police, secular prosecutors, and child protective services when responding to allegations of an offense.

Response is the action taken by the church when a report of sexual misconduct is received. It might include (1) inquiry into fact and circumstances, (2) notification of secular authorities, (3) possible disciplinary action (administrative or judicial or both), (4) pastoral care and professional intervention for victims, their families, and others involved in congregational and employment settings, (5) pastoral care and professional intervention for congregational and employment settings, and (6) pastoral care for the accused.

Rules of Discipline of the Presbyterian Church (U.S.A.) include the disciplinary procedures contained in the *Book of Order*, D-1.0000 – D-14.0000.

Secular Authorities are the governmental bodies, whether city, county, state or federal, who are given the responsibility to investigate, criminally prosecute, and/or bring civil charges against individuals accused as sexual crimes or offenses.

Secular Law is the body of municipal, state, and federal laws and is often referred to collectively as civil and criminal. Prohibited behavior addressed by this policy may result in criminal charges and/or civil lawsuits filed under secular law.

Sexual Abuse of the Elderly and Persons with Disabilities includes, but is not limited to, any sexual contact when the actor knows the victim is physically or cognitively unable to resist, is incapable of appraising the nature of the act or giving meaningful consent, is unaware that the sexual assault is occurring or has not granted meaningful consent to the sexual contact.

Sexual Harassment in this policy means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's employment or volunteer service, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual, or (3) 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. (See also the definitions of sexual harassment contained in the Unlawful Harassment policy in the church's *Personnel Manual*.)

Victim is the term used to identify the person alleged to have been injured by sexual misconduct.

Volunteer is the term used for those who provide services for the church and receive no benefits or remuneration. Volunteers include persons elected or appointed to serve on boards, committees, and other groups. For purposes of this policy, volunteers are treated the same as

employees. Liabilities of the governing body or entity are the same for volunteers as for employees.

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