

**PRESBYTERY OF HUDSON RIVER
PRESBYTERIAN CHURCH (U.S.A.)
CLERGY SEXUAL MISCONDUCT POLICY**

INTRODUCTION

The Presbytery of Hudson River, in an effort to further the peace, unity and purity of the church through the prevention and remediation of sexual misconduct within the church, has adopted the following policy. The structures and procedures for responding to allegations of sexual misconduct are mandated by the Book of Order. This policy applies to all minister members of the Presbytery. Others who serve the church, paid and volunteer, are under the jurisdiction of the session of the particular church.

PART I PRESBYTERY OF HUDSON RIVER CLERGY SEXUAL MISCONDUCT POLICY

THE PURPOSE OF THIS DOCUMENT: To define sexual misconduct by minister members of Presbytery and to describe the procedures for reporting sexual misconduct to the Presbytery.

- A. Definition of Sexual Misconduct:** Sexual misconduct in the ministerial relationship is an abuse of authority and power, breaching Christian ethical principles by sexually misusing a trust relationship to gain advantage over another for personal gratification in an exploitative and unjust manner. It is the comprehensive term used in this policy to include: sexual abuse of children or adults, rape or sexual assault, and sexual harassment. Categories of sexual misconduct are described below.
1. Sexual abuse occurs whenever a person in a position of trust engages in a sexual act or sexual contact with another person to whom he or she owes a professional responsibility with or without consent. Such abuse shall include, but not be limited to, the following:
 - a. Sexual acts or sexual contact with a minor.
 - b. Sexual acts or sexual contact involving inducement, threat, coercion, force, violence, or intimidation of another person.
 - c. Sexual acts or contact between ministers and laity with whom they have a professional relationship. This includes consensual physical relationships. Sexual relationships even when consensual are not acceptable regardless of whether pastoral care is involved because of the imbalance of power between the minister and the lay person undermines the validity of such consent.
 - d. Sexual acts or sexual contact with another person who is incapable of

appraising the nature of the conduct or physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act or sexual contact.

- e. Sexual acts or sexual contact arising from the administration to another person of a drug or intoxicant which substantially impairs the ability of that person to apprise or control the nature of the conduct.
 - f. Compelling another person to view child or adult pornographic media or websites.
2. 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 person or of a third person. The behavior may or may not involve touching. Child sexual abuse between an adult and a child is always considered forced whether or not consented to by the child. Child sexual abuse is a crime in all states and must be reported to civil authorities. Anyone who knows or has reason to suspect that child abuse has occurred or is occurring generally may be a mandated reporter under the law.
3. Rape or sexual assault is a crime in every state and should be reported to civil authorities and to the Stated Clerk of the Presbytery.
4. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually offensive nature when:
- a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or their continued status in an institution in either a professional or volunteer capacity;
 - b. Submission to or rejection of such conduct by an individual is the basis for employment decisions affecting that individual; or
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or volunteer performance by creating an intimidating, hostile, or offensive working environment.

Sexual harassment can consist of a single intense or severe act or multiple persistent or persuasive acts. Sexual harassment may include, but is not limited too:

- sexually oriented jokes or humor;
- sexually demeaning comments;

- verbal suggestions of sexual involvement or sexual activity;
- questions or comments about sexual behavior;
- unwelcome or inappropriate physical contact;
- graphic or degrading comments about an individual's physical appearance;
- express or implied sexual advances or propositions;
- display of sexually suggestive objects or pictures;
- repeated requests for social engagements after an individual refuses.

B. Policy on Sexual Misconduct.

1. Sexual misconduct is never permissible. It is a violation of the principles set forth in Scripture as well as of ministerial, pastoral, employment, and professional relationships. Sexual misconduct by a minister violates the ordination vows of the Presbyterian Church (USA) and the Standards of Ethical Conduct of the Presbytery of Hudson River (*currently under review*).
2. All minister members of the Presbytery shall attend a seminar offered by the Presbytery or another source satisfactory to the Committee on Ministry on the issues of sexual misconduct. All candidates and inquirers of the Presbytery shall attend a seminar offered by the Presbytery or another source satisfactory to the Committee on Preparation for Ministry on the issues of sexual misconduct. Failure to attend such a seminar within one year of being received by the Presbytery will result in the minister member being placed on unpaid administrative leave and excluded from the exercise of ministry until such time as the seminar is attended. Such an administrative leave shall be automatic, requiring no further action by the Presbytery
3. Whereas this policy addresses sexual misconduct by ministers, each congregation and organization in HRP is responsible for developing a policy for church professionals, officers, members, non-member employees, and volunteers which is consistent with this document.

PART II RESPONSIBILITIES AND ROLES OF THE PRESBYTERY OF HUDSON RIVER IN POLICY IMPLEMENTATION

A. AVAILABILITY OF POLICY AND PROCEDURES

1. All ministers shall be given copies of the policy and be required to sign an acknowledgment of receipt.

2. This document shall also be available to all church members and to the public.
3. Presbytery employees shall receive this document as a supplement to the employee handbook.
4. This policy will be sent to every clerk of session annually.

B. MANAGEMENT OF ALLEGATIONS OF SEXUAL MISCONDUCT BY MINISTERS

1. Resource Documents

The responsibilities, structures and procedures for responding to allegations of sexual misconduct, such as the roles of the Committee on Ministry and an Investigating Committee are mandated by the Book of Order (*see G-11.0502 and D-10.0200*).

2. Liability and Insurance

The Presbytery and its congregations shall periodically obtain from their insurance agents, confirmation that their liability insurance policy covers sexual misconduct liability for its programs and activities.

3. Record Keeping

The Presbytery of Hudson River will include in every employee's personnel file, including ministers, the application for employment, any employment questionnaires, reference responses, and other documents related to this policy including a signed receipt for receiving the sexual misconduct policy.

C. PRE-EMPLOYMENT SCREENING FOR PROSPECTIVE INCOMING CLERGY

1. Reference Checks

Pre-employment screening includes specific questions related to previous complaints of sexual misconduct. The Presbytery reviews **Sexual Misconduct Information** of the Presbyterian Church (USA) Personal Information Form when interviewing persons seeking ministerial calls.

The Office of the General Presbyter is responsible for making reference checks through the Synod Executive, General Presbyter, or other authorized persons to ascertain whether those persons have any history of sexual misconduct. The General Presbyter reports to the Committee on Ministry either that there was no reported sexual misconduct, or that the committee should inquire into reported sexual misconduct. A written record of conversations and correspondence with references will be kept in the minister's/employee's personnel file.

The person within the Presbytery authorized to give a reference is obligated to give truthful information regarding complaints, inquiries, and administrative or disciplinary action related to sexual misconduct by the applicant.

Applicants shall be given an opportunity to correct or respond to information regarding sexual misconduct obtained from a reference check.

2. Background Checks (*currently under review*)

Pre-employment screening for prospective incoming clergy also includes a mandatory Criminal History Background Check performed by a private investigative firm *which will* access the misdemeanor and felony conviction records of courts in the United States. The criminal background check is based on the last seven years' residential history of the applicant.

As part of the Committee on Ministry's clearance process, all prospective incoming clergy shall be required to sign a written consent and release form authorizing the criminal record background check. The Committee on Ministry will provide all prospective incoming clergy with a written disclosure that a criminal record background report will be requested. Only the General Presbyter or the Stated Clerk shall order and review the criminal record background reports. The discovery of a criminal conviction will not automatically exclude the person from entry into the Presbytery and work in its congregations. The use the Presbytery makes of the criminal record background report will be determined on an individual case by case basis. The General Presbyter and the Committee on Ministry will counsel both with the prospective clergy person and the calling congregation where appropriate. At the same time, Committee on Ministry will take with full seriousness the failure of incoming prospective clergy to volunteer critically important information regarding criminal history.

The General Presbyter and Stated Clerk shall ensure the confidentiality and appropriate retention of criminal record background reports.

A minister who claims that the information in the report is inaccurate, false or incomplete shall have the right to dispute it with the investigative firm.

The Presbytery will follow all the steps set forth in the Fair Credit Reporting Act.

D. EDUCATION

The Presbytery of Hudson River has a commitment to offer, provide resources for, and to publicize educational opportunities to prevent sexual misconduct in the church. Presbytery staff, Sexual Misconduct Response Coordinating Team members, ministers, ministerial candidates, and all persons and committees working with the issue, including local congregations will be invited to read the resources and attend sexual misconduct prevention seminars.

E. MAINTENANCE OF A SEXUAL MISCONDUCT RESPONSE COORDINATING TEAM (RCT)

A Sexual Misconduct Response Coordinating Team (RCT) made up of clergy and elders of up to six persons shall be maintained. The purpose of the RCT is to assure that an expeditious, professional, objective, effective, and caring response is made by the Presbytery to charges of sexual misconduct. The RCT will not investigate an allegation or in any way usurp the roles of HRP officials or committees (including Investigating Committees). The RCT will confine its activities to:

1. Coordinating a process that addresses the specific needs of the alleged victims and their families, those accused and their families, an affected congregation, and the Presbytery;
2. Assigning advocates, if requested by the alleged victims, the accused, family members, or an involved congregation;
3. Recommending and participating in education and training regarding sexual misconduct, its consequences, and its prevention.

Members of the RCT and any individual participating in the work of the RCT shall sign a pledge of confidentiality, copies of which shall be furnished to the chair of the RCT, the General Presbyter, and the Stated Clerk.

PART III POLICY ON RESPONSE TO ALLEGATIONS OF SEXUAL MISCONDUCT BY MINISTERS

1. Known or suspected sexual misconduct by a minister shall be reported to the HRP Stated Clerk and to other authorities where required.
2. Sexual abuse involving children, and allegations of rape, sexual assault or other misconduct that violates criminal law shall be reported to civil authorities and to the Stated Clerk.
3. In the event that an alleged incident of sexual harassment comes to the attention a Clerk of Session, the moderator of the Sexual Misconduct Response Coordinating Team, the moderator of the Committee on Ministry, or the Stated Clerk of the Presbytery, any two of these four will contact the accuser/victim and discuss the following alternatives:
 - a. **The Session or employing agency level:** referring the matter to the church session and/or personnel committee for their consideration and action.
 - b. **The Committee on Ministry level:** requesting an intervention by the Sexual Misconduct Response Coordinating Team or other Committee on Ministry representatives with which ever parties they see fit to contact.
 - c. **The Presbytery level:** directly proceeding to the judicial process defined in the Book of Discipline.

Out of this conversation each participant shall determine the appropriate level of intervention and offer that view to the others.

- If all parties (including the accuser and/or victim) believe alternative “a” should be the course of action, it shall be pursued.
- If any one or more of the parties believes alternative “b” should be pursued, then “b” shall be pursued unless any one party or more believes alternative “c” should be pursued, then alternative “c” will be pursued.
- Beginning with alternative “a” does not preclude shifting the approach to alternative “b” or “c” at a later time.
- Alternative “c” does require the participation of the accuser/victim.

- The accuser/victim can proceed to disciplinary process (alternative “c”) at anytime he or she may choose independent of any other party.
4. Ministers are subject to inquiry and discipline under the Book of Order Rules of Discipline. A final report, including any charges filed, and actions taken shall be made by the Stated Clerk to the Presbytery. A copy of the report will be filed in the permanent personnel file of the accused.
 5. A written complaint to the Stated Clerk alleging sexual misconduct by a minister member of the Presbytery subjects that minister to any HRP policy on administrative leave in effect.
 6. A minister may make a written confession of misconduct without a victim's complaint to the Stated Clerk. The Clerk will proceed under the Book of Order Rules of Discipline.
 7. The Presbytery will respect the rights of all parties involved: accusers, victims, accused, and an involved congregation. These rights include:
 - a. To be heard and taken seriously. From the time that sexual misconduct is reported, all persons shall receive immediate attention and serious consideration from those representing the Presbytery. A reasonable attempt to identify and to locate the victim(s) will be made in the case of self-accusal.
 - b. To be informed about church procedures with regard to the accusation. One member of the RCT will be the Presbytery contact for each party involved.
 - c. To obtain legal advice.
 - d. To be offered an advocate trained by the RCT. While HRP proceeds to deal with the accusation, the Presbytery has the responsibility to provide each party involved moral support from an individual who is available to him or her or them.
 - e. To be assured that justice will be pursued through the procedures set forth in the Book of Order and this Policy.
 - f. To become engaged in work toward healing and reconciliation.
 8. The Presbytery shall design a plan for provision of counseling or reimbursement

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

APPENDIX

Glossary of Terms

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

Accuser/victim is the person claiming knowledge of sexual misconduct by a person covered by this policy. The victim is the person alleged to have been subjected to sexual misconduct by a person covered under this policy. The accuser may or may not have been the victim of the alleged sexual misconduct.

Advocate is a person trained by the RCT or its designee in the issues of sexual misconduct and to provide support, and emotional and physical presence, to either the alleged victim(s) and their family, the accused, family members of the accused, or the congregation involved in a sexual misconduct case. The advocate also provides clarification of the investigative process of the church and the judicial process of the church to the person(s) with whom he or she works. The role of an advocate is to inform that party of his or her rights within the investigative process. The advocate shall not give advice regarding civil remedies. When requested by the party for whom she or he is advocate, the advocate may accompany that person to meetings of Presbytery entities when that party is testifying.

Mandated Reporter is described by the laws of the New York as a person who is required to report any and all suspected incidents of child abuse, including child sexual abuse, that come to their attention. State laws vary from defining "all persons having knowledge" as mandated reporters to specifying very limited list of professions whose members are required to report child abuse. The policies of the PCUSA require all Elders, Deacons and Ministers to report all suspected incidents as "Mandated Reporters."

Minister refers to Ministers of the Word and Sacrament as defined in the Book of Order, G-6.0200.

Minister Member is a minister who has been received into the membership of the Presbytery of Hudson River. This includes pastors whose credentials are held simultaneously by another denomination (such as "Formula of Agreement" denominations) who serve within the bounds of the Presbytery of Hudson River.