

**POLICY ACKNOWLEDGMENT
FOR "POLICY AND PROCEDURE ON SEXUAL MISCONDUCT"**

TO: All Members of Presbytery
All Persons on Other Rolls of Presbytery
All Employees of Presbytery
All Volunteers of Presbytery

The Presbytery's "Policy and Procedure on Sexual Misconduct"

On August 13, 2011, the Presbytery of Plains and Peaks amended the "Policy and Procedure on Sexual Misconduct" which explicitly prohibits professional misconduct of a sexual nature. This was further amended on May 5, 2012. **A new policy was adopted August 2020.** A copy of the document is attached.

Unless otherwise indicated, this policy of the Presbytery of Plains and Peaks applies to all members of the Presbytery (ordained ministers), all persons on other rolls of the Presbytery (commissioned church workers, inquirers, candidates), all employees of the Presbytery (whether ordained to church office or not), and all who serve in the work or function on behalf of the Presbytery as volunteers. This policy and procedure does not apply to persons unless they are either members of the Presbytery of Plains and Peaks, on the rolls of the Presbytery, or serve as employees, or as specific agents of the Presbytery.

It is essential that all who are subject to the policy and its procedures read and understand the policy, acknowledge that they have done so, and formally acknowledge that they are bound by the Presbytery's discipline in the matter.

Please complete the form below and return to:

**The Office of the Stated Clerk – Presbytery of Plains and Peaks
3620 W. 10th St. – Unit B PMB 405
Greeley, CO 80634**

-----DETACH AND RETURN-----

_____ I have received a copy of the "Policy and Procedure on Sexual Misconduct" as adopted by the Presbytery of Plains and Peaks **on August 2020**. I have read it, I understand it, and I acknowledge that the policy and procedure applies to me.

_____ I certify that no civil, criminal, or ecclesiastical complaint has been sustained or is pending against me for sexual misconduct; and I have never resigned or been terminated from a position for reasons related to sexual misconduct.

_____ I am unable to make the above certification. I offer, instead a description of the complaint, termination, or the outcome of the situation with explanatory comments.

Signature Printed Name

Street Address City, State, Zip

Date

**Presbytery of Plains and Peaks
Presbyterian Church (U.S.A.)
Sexual Misconduct Policy and its Procedures**

I. Policy Statement

It is the policy of the Presbyterian Church (U.S.A.) (hereinafter referred to as PC(USA)) and the Presbytery of Plains and Peaks (hereinafter referred to as PPP) that all teaching elders, commissioned pastors, church members, church officers, non-member employees, and volunteers of congregations, councils, and entities of the church 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 teaching elder, commissioned pastor, church member, officer, employee, or volunteer to engage in sexual misconduct.

Distribution

Copies of this policy and its procedures shall be made available to all members and interested parties of the PPP. It shall be posted on the PPP website. It governs and protects members and employees of the PPP.

II. Standards of Conduct

- ... As [God] who called you is holy, be holy yourselves in all your conduct;
- ... Tend the flock of God that is in your charge, ... not under compulsion but willingly, ... not for sordid gain but eagerly. ... do not lord it over those in your charge but be examples to the flock. – 1 Peter 1:15; 5:2-3, NRSV
- ... You know that we who teach will be judged with greater strictness. – James 3:1, NRSV

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 the role of teaching elders, commissioned pastors, employees, volunteers, counselors, supervisors, teachers, and advisors of any kind who are called upon to exercise integrity, sensitivity, and caring in a trusting relationship. It breaks the covenant to act in the best interests of parishioners, clients, co-workers, and students.
2. Sexual misconduct is a misuse of authority and power that breaches Christian ethical principles by misusing a trusting relationship to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. If the parishioner, student, client, or employee initiates or invites sexual content in the relationship, it is the pastor’s, counselor’s, officer’s, or supervisor’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, including children. Sexual misconduct is antithetical to the gospel call to work as God’s servant bringing wholeness to a broken world. It violates the mandate to protect the vulnerable from harm.

Definitions

Sexual Misconduct is the comprehensive term used in this policy to include:

1. Child sexual abuse; including, 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. Sexual behavior between a child and an adult is always considered forced

whether or not consented to by the child. In the PC(USA), the sexual abuse definition of a child is anyone under age eighteen.

2. Sexual abuse as defined in the Book of Order: “Sexual abuse of another person is any offense involving sexual conduct in relation to (1) any person under the age of eighteen years or anyone over the age of eighteen years without the mental capacity to consent; or (2) any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position” (Book of Order, D-10.0401c).
3. Sexual harassment; defined for this policy is as follows: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment 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;
 - b. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual;
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, or offensive working environment; or
 - d. An individual is subjected to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit men, women, or children.
4. Rape or sexual contact by force, threat, or intimidation.
5. Sexual misconduct is offensive, obsessive or suggestive language or behavior, unacceptable visual contact, unwelcome touching or fondling that is injurious to the physical or emotional health of another.
6. Sexual Malfeasance; is defined by the broken trust resulting from sexual activities within a professional ministerial relationship that results in misuse of office or position arising from the professional ministerial relationship.
7. Misuse of technology; use of technology that results in sexually harassing or abusing another person, including texting or emailing suggestive messages and images to persons with whom one has a ministerial relationship. It is never appropriate to view pornography on church property. When this includes a person under the age of eighteen, it is considered child abuse. There is never an expectation of personal privacy when using technological equipment owned by a church or church entity or within the context of ministry.

III. Church Response to Allegations of Sexual Misconduct

A. Principles

In responding to allegations of sexual misconduct, members, officers, and employees of the church should seek healing and assure the protection of all persons. Where possible, the privacy of persons should be respected, and confidentiality of communications should be maintained.

In responding to allegations of sexual misconduct, members, officers, and employees of the church 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 PC(USA) and PPP has jurisdiction over its members, officers, and employees such that if a member, officer, or employee is alleged to have committed an offense against Scripture, the PC(USA) Constitution, and/or the Standing Rules of PPP, the church, and PPP have the duty to inquire into the allegations and, if the allegations are proven, to correct the behavior of the member, officer, or 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 an active non-member who is employed or volunteers with the church, the individual will be covered by the procedures of the written personnel policies of the council or entity.

If the person accused of sexual misconduct is no longer a member, officer, or employee of the PPP, but the conduct occurred while the person was acting on behalf of the PPP, the church 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. The council may appoint an administrative commission to hear the allegations of sexual misconduct (G-3.0109b(6)). The council may also take measures to prevent future occurrences of harm through education and policy.

B. Reporting Requirements

1. Reporting Sexual Misconduct

A person needing to report that a member, officer, employee, or volunteer of the Presbytery has committed sexual misconduct is encouraged to seek guidance from the Executive Presbyter, Stated Clerk, the moderator of Presbytery, or the moderator of the Presbytery Council.

Congregation: If the person who is accused of committing sexual misconduct is a member, ruling elder, deacon, volunteer, or employee of a congregation, the report of allegations should be made to the teaching elder, the clerk of session, or the chair of the Personnel Committee. If the accused is a member or officer of the church, the church will respond by using the procedures set forth in the Rules of Discipline of the Book of Order. If the accused is a non-member employee or volunteer, the church will respond by using procedures set forth by the session of the congregation.

Presbytery: If a person who is accused of committing sexual misconduct is a teaching elder member, the report of allegations should be made to the Stated Clerk of the Presbytery. If the report of allegations is placed in writing, the Presbytery will respond by using the procedures set forth in the Rules of Discipline of the Book of Order. If the person who is accused of committing sexual misconduct is a volunteer or non-member employee of the Presbytery, the report of allegations may be made to any of the staff or volunteers of the Presbytery. The Presbytery will respond by using procedures set forth by policy of the Presbytery.

2. Receiving Reports of Sexual Misconduct

Reports of allegations of sexual misconduct will occur in a variety of ways. Because a council or entity cannot control to whom the victim of sexual misconduct will speak first, it is important that officers, employees, and persons highly visible to church members and visitors understand how reports of incidents are channeled to the proper person. The allegations may come from persons who have or who do not have a formal relationship with the PC(USA) and may be made to a variety of officers or leaders within the PC(USA). It is the duty of these officers 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 “higher authorities,” 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 church be unable to respond because no one is able to give firsthand information.

The person receiving the initial report of allegations of sexual misconduct shall analyze the relationship of the person accused of sexual misconduct with the PC(USA) and shall make sure that the allegations of offense are filed with the council which has jurisdiction over the person accused. This may be done by the person alleging harm or by any member of the PC(USA).

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. 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 a clerk or the Stated Clerk receives a report of allegations in writing from a non-member of the PC(USA) alleging another member or officer of the PC(USA) 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, any member of the PC(USA) may make the written statement that will automatically trigger the Rules of Discipline of the Book of Order.

The person taking the report should let the victim know that the Presbytery has a Sexual Misconduct Response Team and offer to have one of its members contact them. These trained team members can serve as an advocate and friend during this process.

3. Mandatory Reporting of Child Abuse

All ruling elders, deacons, Certified Christian Educators, teaching elders, and employees of the Presbytery are required to report knowledge of child abuse to the civil and ecclesiastical authorities according to the Book of Order. The Book of Order requires that

- “Any member of this church engaged in ordered ministry and any certified Christian educator employed by this church or its congregations, shall report to ecclesiastical and civil legal authorities knowledge of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of a confidential communication as defined in G-4.0301, (2) she or he is not bound by an obligation of privileged communication under law, or (3) she or he reasonably believes that there is risk of future physical harm or abuse” (G-4.0302)

Further

“In the exercise of pastoral care, teaching elders (also called ministers of the Word and Sacrament) and ruling elders who have been commissioned by a presbytery to limited pastoral service” (G-2.10), shall maintain a relationship of trust and confidentiality, and shall hold in confidence all information revealed to them in the course of providing care and all information relating to the exercise of such care.

When the person whose confidences are at issue gives express consent to reveal confidential information, then a teaching elder or a ruling elder commissioned to pastoral service may, but cannot be compelled to, reveal confidential information.

A teaching elder or a ruling elder commissioned to pastoral service may reveal confidential information when she or he reasonably believes that there is risk of imminent bodily harm to any person (G-4.0301). All persons covered by this policy have an additional duty to report knowledge of child sexual abuse to the employing entity, supervisor, or council representative. All persons should be informed of and must comply with state and local laws

regarding incidents of actual or suspected child sexual abuse. These reports should be made within a reasonable time of receiving the information.

These provisions of the Book of Order attempt to balance conflicting moral duties for officers of the Presbyterian Church (U.S.A.).

For teaching elders, the provision strives to balance the duty to protect children from future harm with the duty of a teaching elder to hold in confidence any information revealed to them during the exercise of pastoral care in any ministry setting as defined in G-4.0301 in the Book of Order.

For ruling elders, deacons, certified Christian educators, and PPP employees, the provisions strive to balance the duty of an officer of the church to protect children from harm and any secular duty the officer may have to hold in confidence any information revealed as a result of a secular relationship such as attorney/client, counselor/client, or physician/patient. The secular duties will be a function of secular law and may vary from state to state.

C. Responding

The appropriate council or entity response will vary according to the relationship of the PC(USA) with the person who is accused of sexual misconduct. Church members and officers are subject to inquiry and discipline (censure and correction) under the Book of Order. Non-church member employees and volunteers are subject to oversight and correction by the council or entity that employs them.

1. Accused Covered by Book of Order

When an allegation of offense of sexual misconduct has been received by the Stated Clerk of the Presbytery, the Stated Clerk will report to the Council that an offense has been alleged and that the Council will proceed according to the procedures set forth in the Rules of Discipline of the Book of Order. The Council should appoint an investigating committee to inquire into the allegations. The investigating committee must promptly begin its inquiry into the allegations. Delay may cause further harm to the victim and/or the accused.

Councils and entities 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 session has original jurisdiction in disciplinary cases involving members, ruling elders, and deacons of the church, each congregation having jurisdiction only over its own members.

The Presbytery has original jurisdiction in disciplinary cases involving teaching elders. The Presbytery may dissolve a pastoral relationship when the “Word imperatively demands it” (G-2.0904). However, the Presbytery may only place a teaching elder on administrative leave when allegations of child abuse have been received and the Presbytery has followed the Book of Order procedures to conduct its risk evaluation to determine whether or not a teaching elder member accused of child abuse should be placed on administrative leave (D-10.0106). It is recommended that the Permanent Judicial Commission (PJC) members who will conduct this risk evaluation based upon the allegations and a hearing should also take into account secular legal advice.

When a church officer renounces jurisdiction, the Stated Clerk shall report the renunciation at the next meeting of the council and shall record the renunciation in the minutes of the council. The status of any pending charges may be shared with the council at that time.

2. Accused Not Covered by the Book of Order

When a council or entity of the Presbytery receives an accusation of offense of sexual misconduct against a non-member employee or volunteer, the procedural response of the council or entity will be guided by the written personnel policies of the council or entity. Usually the council or entity will have a personnel committee that will be responsible for the inquiry. If a council does not have a personnel committee, it may appoint either a committee or administrative commission for the review of the allegation.

The committee or commission that will respond to the allegation of offense of sexual misconduct will do the following:

- a. Determine whether or not the allegation gives rise to a reasonable suspicion of sexual misconduct by the accused.
- b. If so, 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 Personnel Committee shall prepare a written report, which shall be included in the accused's permanent personal file. The accused shall be allowed to attach any written statements to said documents, also for permanent inclusion in the permanent file.

All procedures shall follow the guidelines set forth by the council, employing agency, or entity of the Presbytery.

3. Council or Entity Record Keeping

The PPP or church should 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 Stated Clerk will maintain the records while the inquiry is in process.

IV. Prevention and Risk Management

A. Implementation

The PPP shall make this policy and any future revisions easily available to all its members, employees and churches, and encourage all churches to inform its members of this policy.

B. Liability and Insurance

A council or entity can be held liable for harm caused by sexual misconduct of an officer, teaching elder or employee based on a number of legal theories. Councils and entities should take such potential liability into consideration when establishing hiring and supervisory practices. Incoming teaching elder members shall be required to complete a background check and boundary training. Such checks and training shall be completed every three years.

The PPP will regularly consult with their insurance carrier regarding programs and activities it sponsors. Insurance coverage will include provisions for sexual abuse and molestation.

C. Employment Practices

1. Record Keeping

Accurate record keeping is an essential part of hiring and supervision practices of churches, middle governing bodies, and related entities. Every council and entity should maintain a personnel file on every employee, including

teaching elders. The file should contain the application for employment, any employment questionnaires, background checks, references responses, and all other documents related to an employee's employment, except records which may be required, by law, to be kept in separate files.

2. Prescreening Applicants

The PPP has established thorough and consistent hiring practices. If an applicant is unknown to the employer, the employer should confirm the applicant's identity by requiring photographic identification such as a driver's license or passport. The Council should perform a background check, including a national criminal background check, on all applicants.

Part of pre-employment screening should include specific questions related to discovering previous complaints of sexual misconduct.

3. References

The employing council or entity is responsible for contacting references for prospective teaching elders, employees, or volunteers. A written record of conversations or correspondence with references should be kept in the teaching elder or employee's personnel file.

A council should delegate responsibility for previous employer reference checks.

The person within the council or entity authorized to give a reference is obligated to give truthful information regarding allegations, inquiries, and administrative or disciplinary action related to sexual misconduct of the applicant. If false or misleading information is given by the applicant, or relevant information is withheld, the applicant should be eliminated from consideration.

Applicants should be informed of negative comments regarding sexual misconduct and shall be given an opportunity to submit additional references or to give other evidence to correct or respond to harmful information obtained from a reference.

V. Educating and Training – Awareness

Since the issue of sexual misconduct has become an ever more present reality, there is an emerging need to educate and train a wide variety of persons. Persons needing this specific education include teaching elders, commissioned pastors, volunteers, officers, non-professional and professional staff, ministerial candidates, professionals who will be working with this issue within the denomination, members of the congregation, and PPP staff including supervisors, employees, Executive Presbyter, and the Stated Clerk.

Education for these persons and groups will be different on a group-by-group basis. A primary requirement for all persons should be common knowledge regarding professional and ministerial boundaries, the General Assembly Sexual Misconduct Policy and this PPP Sexual Misconduct Policy.

Much of a congregation's education currently happens in response to an actual case of sexual misconduct. However, it is recommended that the congregation be as proactive in this area as possible offering education in a variety of settings. There are already numerous resource materials available that could be adapted to a congregation's setting.

Employing entities need to make sure all employees are well acquainted with, understand, and abide by their policy and procedures. Employing entities should offer additional training and resources, such as: a workshop during staff meeting; lunchtime discussion group; articles and books made available; etc.

Any professionals (therapists, attorneys, advocates, mediators, arbitrators) used by a council should have access to experts qualified in the field of sexual misconduct if they themselves are not.

Roles of Staff: The role of the Stated Clerk is limited to receiving complaints and serving as consultant/resource to the ecclesiastical judicial process. The role of other members of Presbytery/Synod staff is limited to providing appropriate support and counsel to the Committee on Ministry, but it not intended to include responsibility for either counsel or management except at the direction of that Committee on Ministry. The role of the Executive Presbyter is to notify insurance carriers, civil authorities, or local employing or governing bodies, and to provide support and counsel to the Committee on Ministry. The role of staff is to provide a channel for communication and to describe existing process; members of the Presbytery staff are not to adjudicate or to provide advice and counsel other than as directed by the Presbytery through either the Committee on Ministry or through judicial process.