

PRESBYTERY OF NORTHERN NEW YORK
COMMITTEE ON PRESBYTERY OPERATIONS

SEXUAL MISCONDUCT POLICY
AND ITS PROCEDURES

February 1997

I. **PREAMBLE**

So God created humankind in his image,
in the image of God he created them;
male and female he created them.

Genesis 1:27 (NRSV)

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So Jesus called [his disciples] and said to them,
"You know that among the Gentiles
those whom they recognize as their rulers
lord it over them,
and their great ones are tyrants over them.
But it is not so among you;
but whoever wishes to become great among you
must be your servant,
and whoever wishes to be first among you
must be slave of all.
For the Son of Man came not to be served
but to serve,
and give his life a ransom for many."

Mark 10:42-45 (NRSV)

We, the members of the Presbytery of Northern New York, Presbyterian Church (U.S.A.), believe and proclaim that all human beings are created by God in God's image. Therefore every person - child, woman and man - has worth and dignity in the eyes of God. This God given worth and dignity should be recognized and respected in all human relationships and especially in those relationships involving persons who have been entrusted with positions of leadership and authority within God's church and those over whom they exercise this leadership and authority. To make use of power and authority vested in one by virtue of the church office to which one has been called for any purpose other than to serve those who have been entrusted to one's care is an abuse of power, a betrayal of trust and a denial of the other's inherent worth and dignity. Sexual misconduct is just such an abuse of power, betrayal of trust and denial of worth and dignity and must not be tolerated.

In this belief, we enact the following policy on sexual misconduct in order that allegations of sexual misconduct may be treated with all the seriousness they deserve and dealt with promptly, justly and with compassion to all parties effected by such allegations.

II. Policy Statement

It is the policy of the Presbytery of Northern New York, Presbyterian Church (U.S.A.) that all ministers of the Word and Sacraments, church officers, church members, non-member employees, and volunteers of governing bodies and entities of the presbytery, are responsible for

maintaining the integrity of pastoral, ministerial, employment, and professional relationships at all times. Sexual misconduct is always a violation of such relationships and of the principles set forth in scripture. It is never permissible or acceptable.

This policy applies to all ministers of the Word and Sacraments, church officers, church members, non-member employees, and volunteers of governing bodies and entities of the presbytery.

It is the responsibility of the Presbytery of Northern New York to respond in a timely and competent manner to any allegation of sexual misconduct involving someone over whom the presbytery has jurisdiction. (Book of Order D-5.0100c.e., D-12.0000) Attempts to obfuscate, dismiss, cover up and/or prevent filing of reports of alleged sexual misconduct can, in and of itself, result in disciplinary action under the Rule of Discipline.

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

Reprisals as a result of reporting allegations are not to be tolerated and, should such occur, could lead to disciplinary process.

In this policy, Sexual Misconduct is the inclusive term which encompasses:

1. CHILD SEXUAL ABUSE: This term includes, but is not limited to, any sexual contact or interaction between an adult and a child. The behavior may or may not include touching. Sexual behavior between a child and an adult is always considered forced whether or not consented to by the child. Under the laws of New York State child abuse must be reported to the civil authorities.
2. RAPE OR SEXUAL CONTACT BY FORCE, THREAT, OR INTIMIDATION.
3. SEXUAL MALFEASANCE: This term pertains to the broken trust resulting from sexual contact (e.g. genital contact, contact with the breasts or buttocks, sexual intercourse) involving persons in positions of trust with persons entrusted to their care.
4. SEXUAL HARASSMENT: This involves an abuse of power which may occur in the workplace or in an environment in which authority is a factor. It is defined as unwelcome behavior that ridicules, demeans and/or insults a person because of the person's sex.
5. SEXUAL IMPROPRIETY: This term pertains to sexual behavior involving persons in positions of trust toward persons entrusted to their care which continues after it has been made clear that the behavior is inappropriate or unwelcome. Such behavior may be verbal or physical conduct of an inappropriate sexual nature.

III. Definitions

1. CHURCH with a capital C refers to the Presbyterian Church (U.S.A.). When not capitalized it refers to local churches. The word congregation is used loosely for members and participants.
2. EMPLOYEE is the comprehensive terms used to cover individuals who are hired or called to work for salary or wages for the Church, a governing body, a particular congregation, or other entity formally related to the Church. In all cases where an employee is also a member of Presbytery, the procedures to be followed in all matters involving provisions of this policy will be those provided for a member of Presbytery.
3. ENTITY refers to any program or office managed by a board, committee, council or other body whose membership is elected by a governing body.
4. GOVERNING BODY is a representative body composed of elders and ministers of Word and Sacrament, i.e. sessions and the Presbytery. A governing body may establish entities such as day care centers, camps, etc., and may have both church members and non-members as employees.
5. VOLUNTEER refers to those who provide services for governing bodies and entities of 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.

IV. Response to Allegations

(Note: If at any point in the following procedures, a criminal or civil charge is brought in the matter, the Presbytery's judicial process may need to be temporarily suspended.) (B. O. D-7.1100)

A. Principles

The Presbytery of Northern New York, its churches and entities, shall observe the following principles when responding to allegations of sexual misconduct within their areas of responsibility:

It is a principle of the Presbytery of Northern New York that:

1. Within the context of attempting to establish justice, the protection of all persons involved will be assured and healing within any affected community will be promoted;
2. Within the requirements of civil law, privacy of all persons will be respected and all communications kept confidential;
3. Access to the disciplinary processes of the Presbyterian Church (U.S.A.) and the Presbytery of Northern New York will be provided when appropriate;
4. Within the context of pastoral care, all persons directly affected by allegations of sexual misconduct will be provided with information concerning available therapeutic, legal and/or counseling assistance.

B. Initial Reports

A report shall consist of a written statement signed by one or more persons alleging one or more specific incidents of sexual misconduct along with any available supporting information.

Reports of sexual misconduct may arise in a variety of ways. Because an individual church or the Presbytery cannot control to whom an accuser of sexual misconduct will first speak, it is important that all church leaders and employees understand how reports of incidents are to be channeled to the proper persons.

The Presbytery shall ordinarily designate the Stated Clerk and the Chair of the Committee on Ministry as a **Report Receiving Team**. If, for any reason, either of these persons is unable to serve at the time the report is received or if an allegation involves either of these persons, the Chair of the Committee on Presbytery Operations shall serve instead. All reports alleging sexual misconduct shall be submitted to either or both of these persons either directly or through a pastor or through one or more members of a congregation appointed by the session to serve as contact persons.

Upon receipt of a report of alleged sexual misconduct the Report Receiving Team shall:

1. Make sure that any civil or governmental laws or regulations covering the matter have been followed (particularly in cases of alleged child sexual abuse);
2. Initiate appropriate procedures under sections E and F below of this policy;
3. Where appropriate, appoint a **Pastoral Care Team** to serve in the case;
4. Prepare and place in the confidential files of the Presbytery a full report on the matter. This report shall be retained in the confidential files of the Presbytery for one (1) year after which time the Presbytery will destroy the report.

C. Pastoral Care Teams

A Pastoral Care Team shall consist of four or more members drawn from the pool established in Presbytery Standing Rules (7.560). Care shall be taken to ensure that this pool includes individuals with special concern for and sensitivity to sexual misconduct issues. A pastoral care team shall have an equal number of women and men. Each Pastoral Care Team shall have a chair appointed by the Report Receiving Team.

A Pastoral Care Team shall respond within 7 days to any allegation of sexual misconduct. Its function is to offer and make available pastoral care to all parties concerned. This includes the affected congregation(s). In providing care to affected congregations, the Pastoral Care Team shall work closely with the Committee on Ministry and any other entities the Presbytery may designate to promote healing within the congregation(s). A Pastoral Care Team shall have no investigative functions and shall not function as a Investigating Committee. Members of the Pastoral Care Team cannot serve on the Investigating Committee appointed to investigate the incidents alleged.

D. Pastoral Care Team Procedures

The steps to be followed when a Pastoral Care Team first meets with any of the parties affected by the allegations of sexual misconduct shall be to:

- a. Notify them of the fact and the nature of the allegation(s);
- b. Advise them concerning the processes and policies of the Church and the Presbytery of Northern New York;
- c. Advise them of where to seek therapeutic, legal and/or counseling assistance and/or

- pastoral support;
- d. Listen to any response.

The content and procedures of any subsequent meetings that may occur is to be determined by the needs of the party or parties concerned.

Within the requirements of civil law, all communications, formal and informal, between any of the parties affected by the alleged misconduct and members of the Pastoral Care Team, shall be regarded as privileged information and cannot be subpoenaed by any investigative entity of the Presbytery.

E. Procedures for Disciplinary Cases

When an accusation involving an alleged offense of sexual misconduct is brought against any person under the jurisdiction of the Presbytery as a result of this policy, a disciplinary case shall be initiated which shall be handled as stipulated by the Rule of Discipline. What follows is a simplified outline and should not be used in place of the Book of Order where these procedures are covered in sections D-7.000, D-8.000, D-9.000 and D-10.000.

1. A written statement alleging at least one offense along with any supporting information is submitted to the Stated Clerk.
2. The Stated Clerk reports to the Presbytery that such a statement has been submitted and therefore it is necessary to elect an Investigating Committee.
3. The Investigating Committee inquires into the alleged offense and determines if charges should be filed.
4. If charges are filed, the Investigating Committee prosecutes the case.
5. The charge is submitted in writing to the Stated Clerk who forwards it to the clerk of the Permanent Judicial Commission of the Presbytery.
6. The Permanent Judicial Commission conducts a preliminary hearing.
7. The trial is conducted by the Permanent Judicial Commission.

F. Principles for Administrative Leave

In all cases where a report of sexual misconduct has been submitted and a disciplinary case initiated against a member of Presbytery, the Committee on Ministry shall meet with the session(s) of the affected churches(es), the accused and the accuser(s), either separately or together as appropriate, to determine whether the continuation of the accused in her/his current position(s) within the Presbytery is in the best interests of the parties affected by the alleged sexual misconduct. If it is determined that it is not in the best interests of the affected parties that the accused continue, the Committee on Ministry shall seek to place the accused on administrative leave, the terms of such leave to be negotiated by the Committee on Ministry with the accused, the session(s) and other affected parties as appropriate. Such administrative leave shall not affect the terms of call in effect at the time until the case is resolved.

In all cases where a report of sexual misconduct has been submitted and a disciplinary case initiated against an employee of Presbytery, the committee having responsibility for personnel and personnel relations shall meet with the employee, the employee's supervisor, the accuser(s), and any other affected parties, separately or together as appropriate, to determine whether it is in the best interests of the parties affected by the alleged sexual misconduct for the employee to continue in her/his current position with the Presbytery. If it is determined that it is not in the best interests of the affected parties for the employee to continue, the committee shall place the employee on

temporary administrative leave the terms of such leave to be negotiated by the committee in consultation with the accused, the employee's supervisor, the accuser(s) and any other affected parties as appropriate.

All administrative leaves resulting from allegations of sexual misconduct shall be without prejudice.

All administrative leaves resulting from the implementation of this policy ordinarily shall continue until such time as the Investigating Committee recommends no further action or, if the Investigating Committee files charges, until the Permanent Judicial Commission of the Presbytery has ruled on the case. Unless the Investigating Committee has filed charges, no administrative leave resulting from the implementation of this policy shall extend beyond one (1) year of the formation of the Investigating Committee (D-10.0401).

V. PROCEDURES FOR AMENDING THIS POLICY

This policy may be amended by a simple majority vote of the Presbytery at any stated meeting provided notification of the intended change(s) was included in the regular mailing sent to the members of Presbytery prior to the meeting.

November 1997