

## **10. SEXUAL MISCONDUCT POLICY PRESBYTERY OF UTAH**

### ***SEXUAL ABUSE PREVENTION AND RESPONSE***

#### **POLICY**

We believe that Scripture and our faith in Jesus Christ call us to standards of responsible conduct in all of life, including sexual behavior.

It is the policy of the Presbytery of Utah that all members of Presbytery (ordained ministers), all persons on other rolls of Presbytery (commissioned ruling elders, commissioned church workers, inquirers, candidates), all employees of Presbytery (whether ordained to church office or not), and all who serve in the work or function on behalf of the Presbytery as volunteers or as specific agents of the Presbytery are to maintain integrity of ministerial, employment, professional, and ecclesiastical relationships at all times.

It is further the policy of the Presbytery of Utah that each particular church and entity operating within and/or under the authority of the Presbytery of Utah shall adopt a policy prohibiting sexual misconduct and shall inform their congregation of the policy. A copy of each church's policy be provided to the Stated Clerk of the Presbytery of Utah.

The responsibility of the Presbytery of Utah with regard to accusations of violation of its policy and procedures on sexual misconduct is to ensure that an effective, caring, and expeditious response is made to all persons, institutions, and entities which may be affected by either a violation of professional ethics or the allegation of a violation. In all cases, all persons shall be treated with respect, personal integrity shall be presumed, and statements shall be taken seriously.

#### **PURPOSE**

The purpose of this sexual abuse prevention and response policy is to make explicit the Presbytery's opposition to abusive behavior and oppressive or degrading environments in employment and other church relationships, to provide a process for the determination of facts in cases of allegations of violation of the policy, and to provide for the imposition of appropriate remedies and disciplines in cases of violation. Within the ecclesiastical context, it makes explicit the duty of the Presbytery to provide or provide for pastoral care of persons who may be affected by either a violation or an allegation of violation of the policy.

#### **DEFINITIONS**

Sexual misconduct involves the misuse of trust, authority, or power in a relationship to gain advantage over another in an abusive, exploitative, or unjust manner. In the case of church professionals (whether they are in pastoral, counseling, or other such relationships), no personal sexual contact or conduct, either public or private, is permitted with anyone with whom the individual has a professional relationship. It is the responsibility of a church officer or church worker to maintain appropriate sexual boundaries and limitations.

Sexual misconduct may include, but is not necessarily limited to:

- 1) sexual contact or conduct with another person while in ministerial, employment, professional, or ecclesiastical relationship, whether or not consensual; or

- 2) sexual conduct, which includes sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature in which submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or church-relationship status or in which submission to or rejection of such conduct by an individual affects decisions regarding employment or membership-status of an individual, or in which such conduct has the purpose or effect of unreasonably interfering with an individual's performance by creating an intimidating, hostile, or offensive working or church-relationship environment; or
- 3) sexual malfeasance defined as sexual conduct within a ministerial (e.g., clergy with a member of the congregation) or professional relationship (e.g., counselor with a client, lay employee with a church member, presbytery executive with a committee member who may be a layperson, a minister, or an elder). Sexual conduct includes unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature. This definition is not meant to cover relationships between spouses, nor is it meant to restrict church professionals from having mutual, social, or marital relationships.

Sexual misconduct also includes violation of the criminal laws of the state in which the conduct occurred, including rape or sexual contact by force, threat, or intimidation, or any other sexual crimes including any contact or interaction between a child and an adult when the child is being exploited for sexual gratification, whether the behavior does or does not involve touching; such sexual behavior between a child and an adult is always considered forced whether or not consented to by the child.

#### **APPLICATION**

This sexual abuse prevention and response policy of the Presbytery of Utah applies to all members of Presbytery (ordained ministers), all persons on other rolls of Presbytery (commissioned church workers, inquirers, candidates), all employees of Presbytery (whether ordained to church office or not), and all who serve in the work or function on behalf of Presbytery as volunteers. The sexual abuse prevention and response policy and procedure does not apply to persons unless they are either members of the Presbytery of Utah, on the rolls of Presbytery, or serve as employees or as specific agents of the Presbytery.

#### **REFERENCES**

Because the Presbytery of Utah has a strong policy opposing sexual misconduct, finalist candidates for any position within the Presbytery are to be checked. The Presbytery may make other inquiries as may be reasonable to assess the suitability of a candidate for service in, or on behalf of the Presbytery.

Every applicant for employment or volunteer service in this Presbytery shall sign a statement regarding whether any civil, criminal, or ecclesiastical complaint related to sexual misconduct has ever been sustained\* or is pending\*\* against the applicant; and whether the applicant has ever resigned or been terminated from a position for reasons related to sexual misconduct.

\*Sustained

- 1) in a criminal court, "sustained" means that there has been a guilty plea, a guilty verdict or a plea bargain a no-contest plea, or has been entered as a sexual offender or abuser in any state central registry.
- 2) in a civil court, "sustained" means that there has been a finding or a judgment against the individual or has entered into a settlement agreement for compensation of any alleged victim.
- 3) in an ecclesiastical case, "sustained" means that there has been a guilty plea and censure imposed, or finding of guilty with censure imposed, by a permanent judicial commission in the Presbyterian Church(U.S.A.) or an equivalent body of another church.

\*\*Pending

- 1) in a criminal court, "pending" means a criminal charge is in the process of being prosecuted, or in a case in which there is not yet a verdict.
- 2) in a civil court, "pending" means a case in which there has not been a decision or judgment.
- 3) in an ecclesiastical case, "pending" means an accusation is being investigated by a special disciplinary committee or charges have been filed but have not yet been decided by a permanent judicial commission; or an accusation or charges are in an equivalent state or process in a church other than the PC(USA).

#### REPORTING PROCEDURE

A person who has a reasonable belief that a violation of the sexual abuse prevention and response policy has occurred by a person to whom this policy is applicable is required to make a report thereof in a prompt and timely manner to the Stated Clerk of the Presbytery of Utah, any other member of the elected professional staff of the Presbytery of Utah, or the chair of the Committee on Ministry of the Presbytery of Utah. Failure to provide notification of a reasonable belief of violation of the sexual abuse prevention and response is itself a violation of the policy.

In order that confidentiality be maintained and that the procedures of the Presbytery of Utah not be compromised, any person who has a reasonable belief that a violation of the sexual abuse prevention and response policy has occurred is to make a report to the Stated Clerk of the Presbytery of Utah and/or civil authorities as may be required by statute, but is not to propagate rumor by other reporting of hearsay, allegations, or suspicions. It is the sole responsibility of the Presbytery of Utah to exercise ecclesiastical jurisdiction with regard to its policy.

A person notified of an alleged violation is to record the names of the accused and accuser, together with a brief description of the alleged offense, in order to prepare a written statement of an alleged offense, together with any supporting information, and transmit these to the Stated Clerk of the Presbytery of Utah for the initiation of appropriate procedures described in this document and in accord with Chapter D-10.0000 from the Rules of Discipline of the *Book of Order* of The Presbyterian Church (U.S.A.). The statement shall give a clear narrative and allege facts that, if proven true, would likely result in disciplinary action. Such allegations shall be referred to an investigating committee (D-10.0101). The Stated Clerk need not be personally persuaded of the truth of the allegations nor need the Stated Clerk see all of the supporting evidence available before instituting procedures.

If the allegation of sexual abuse involves the Stated Clerk of the Presbytery of Utah, the individual making the allegation shall contact the Stated Clerk of the Synod of the Rocky Mountains.

When violation of a criminal statute is believed to have occurred (as in the case of child abuse) or when otherwise required by civil law, a person who has direct personal knowledge of such violation is to make report to the appropriate governmental agency in addition to making a report to the Stated Clerk.

When report of an alleged violation of the Presbytery's policy on sexual abuse prevention and response is received, the Stated Clerk shall initiate the Presbytery's procedures for the establishment of an investigating committee under the provisions of Chapter D-10.0000 from the Rules of Discipline of the *Book of Order* of the Presbyterian Church (U.S.A.) and any personnel policies or other procedures in effect within the Presbytery of Utah.

In addition to initiating procedure pursuant to the *Book of Order*, the Stated Clerk shall inform the Executive Presbyter and the Moderator of the Committee on Ministry of the Presbytery of Utah of the fact that an offense has been alleged. As

Commented [DP1]: I believe the Synod does not have an executive Presbyter anymore

appropriate or required, notification of insurance carriers, civil authorities, or local employing or governing bodies, shall be made by the Executive Presbyter.

#### **PASTORAL CARE**

In the pastoral care provided by the Committee on Ministry of the Presbytery of Utah, there shall be no effort made to determine the guilt or innocence of any parties. The work of the Committee on Ministry shall be to provide to persons, institutions, and entities such pastoral care and support as may be needed to maintain both personal and corporate integrity and effectiveness during the time of the work of an Investigating Committee and until such time as there is resolution of the matter by judicial process. The Committee on Ministry shall supervise and manage ministries of care, oversight, interpretation, reconciliation, or any other services provided by or through the Presbytery of Utah to restore a congregation or entity to effective function.

The Committee on Ministry may, when it is deemed necessary for the protection of persons or institutions, initiate appropriate measures for someone not on the Committee on Ministry to be appointed as Counselor for the care of any and all persons and institutions which have been or might be affected by the alleged misconduct, including local employing or governing bodies. The Committee on Ministry having jurisdiction may provide, either by itself or through a special committee it may establish, such services as:

- 1) interpretation of the Presbytery's policy and procedure and judicial process in consultation with the Stated Clerk, and needs for pastoral care;
- 2) recommendation of appropriate resources for specialized services (interim pastoral care, counseling, conflict resolution, personal advocacy, etc.) and
- 3) provision of appropriate pastoral care for the accused, the accuser, and other persons or institutions affected by the allegation of sexual misconduct.

Should the accused acknowledge the substantial truth of the accuser's charges or should there be evidence which might make such actions prudent, the Committee on Ministry may impose any of the following measures:

- 1) In the case of the accused being in a pastoral position:
  - a) the immediate restriction of the pastoral activities of the accused;
  - b) the immediate imposition of supervision for the accused;
- 2) In the case of the accused being in another validated ministry:
  - a) the immediate temporary withdrawal of validation and the assignment of the accused to member-at-large status, pending investigation of a disciplinary allegation;
  - b) within the bounds of civil law, the notification of the accused's employer that such action has been taken.

In its absolute discretion, and with the consent of the alleged victim, the COM may provide for pastoral care of the alleged victim of the alleged misconduct.

#### **THE INVESTIGATING COMMITTEE**

An investigating committee shall be formed under the provisions of Chapter D-10 from the Rules of Discipline of the *Book of Order* of the Presbyterian Church (U.S.A.) and shall operate by those provisions.

#### **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 is 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 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.

**POLICY ACKNOWLEDGMENT REQUIRED**

No minister member shall be enrolled who has not signed the policy acknowledgment statement of this document. No person shall be installed, commissioned or appointed to positions of pastoral leadership without having signed the policy acknowledgment statement.

**INCLUSION BY REFERENCE**

By reference, the document entitled "Sexual Misconduct Policy and Its Procedures" as adopted by the 205th General Assembly of the Presbyterian Church (U.S.A.) in June of 1993 (as revised and approved by the COGA on October 2013) is incorporated as a resource for use by the Presbytery of Utah, particularly with regard to definitions, theological expressions, and employment forms. Although the procedures described in that document may differ from those of the Sexual Abuse Prevention and Response Policy in the Policy and Procedure on Sexual Misconduct of The Presbytery of Utah, they provide suggestions and guidance to aid in the implementation of the Presbytery policy. This document is available from the Presbytery office.

**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"

This policy of the Presbytery of Utah applies to all members of Presbytery (ordained ministers), all persons on other rolls of Presbytery (commissioned church workers, inquirers, candidates), all employees of Presbytery (whether ordained to church office or not), and all who serve in the work or function on behalf of Presbytery as volunteers. This policy and procedure does not apply to persons unless they are either members of the Presbytery of Utah, 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 Utah  
699 East South Temple #305  
Salt Lake City, UT 84102**

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

\_\_\_\_\_ I have received a copy of the "Policy and Procedure on Sexual Misconduct" as adopted by the Presbytery of Utah on \_\_\_\_\_. 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