

SEXUAL MISCONDUCT POLICY
(Approved June 4, 2009 by Presbytery)

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I. THE SETTING

Scripture says:

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,
not lording it over those in your charge
but be examples to the flock.
You know that we who teach
shall be judged by greater strictness.
I Peter 1:5, 5:2; James 3:1, NRSV

The BOOK OF CONFESSIONS states:

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The relationship between man and woman exemplifies in a basic way God's ordering of the interpersonal life for which God created humankind. Anarchy in sexual relationships is a symptom of our alienation from God, neighbor, and self ... The Church, as the household of God, is called to lead persons out of this alienation into the responsible freedom of the new life in Christ. Reconciled to God each person has a joy in and a respect for one's own humanity and that of other persons... The church comes under the judgment of God and invites rejection by people when it fails to lead men and women into full meaning of life together, or withholds the compassion of Christ from those caught in the moral confusion of our time.

Confession of 1967, 9.47d

From the BOOK OF ORDER:

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To those called to exercise special functions in the Church... God gives suitable gifts for their various duties. In addition to possessing the necessary gifts and abilities, natural and acquired, those who undertake particular ministries should be persons of strong faith, dedicated discipleship, and love of Jesus Christ as Savior and Lord... They must have the approval of God's people and the concurring judgment of a governing body of the church.

Form of Government 6.0106

From the GENERAL ASSEMBLY:

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The integrity of the denomination and its ministry is at stake in the way we respond to the reality of sexual misconduct by those we entrust with religious leadership. This wound in the body of Christ cannot be healed lightly, but healing can occur when accompanied by our commitment to join informed compassion with a process that seeks justice and restoration.

General Assembly Policy on Sexual Misconduct as adopted by the
203rd General Assembly, 1991; Minutes, p. 81

II. INTRODUCTION

The ethical conduct of all who minister in the name of Jesus Christ is of vital importance to the Church because through these representatives is conveyed an understanding of God and the gospel's good news. "Their manner of life should be a demonstration of the Christian gospel, both within the church and in the world." (G-6.0106)

Our sexuality is a gift from God and when rightly expressed leads to the wholeness of life which God intends for all people. Those who serve through the offices of the Church bear particular responsibility for demonstrating the goodness of God's gift of sexuality.

Therefore, the Ministers of Word and Sacrament and all who serve in the staff, structures, and programs of the Presbytery:

- shall exercise responsible sexual behavior and maintain the integrity of employment and professional relationships at all times.
- shall not engage in sexual misconduct as defined in this policy.
- shall deal with allegations of sexual misconduct with seriousness.
- shall report accusations or instances of sexual misconduct to the appropriate Presbytery officials.
- shall hold information received in strict confidence in recognition of the effects of reported sexual misconduct on the reputation and effectiveness of all involved.
- shall, in keeping with the Rules of Discipline, American law and tradition, respect the accused=s presumption of innocence.
- shall comply with all applicable civil law.

III. STATEMENT OF PURPOSE

The preamble to the Rules of Discipline in the *Book of Order* states:

Church discipline is the church=s exercise of authority given by Christ, both in the direction of guidance, control, and nurture of its members and in the direction of constructive criticism of offenders. The purpose of discipline is to honor God by making clear the significance of membership in the body of Christ; to preserve the purity of the church, to correct or restrain wrongdoing...

The power that Jesus Christ has vested in his Church, a power manifested in the exercise of church discipline, is one for building up the body of Christ, not for destroying it, for redeeming, not for punishing. It should be exercised as a dispensation of mercy and not of wrath so that the great ends of the Church may be achieved. (D-1.0101)

Thus, the nature of church discipline is fundamentally a theological enterprise.

In that spirit, the purpose of this Policy is to make clear the position of John Calvin Presbytery on sexual misconduct and to establish the procedures to be followed in investigating and resolving instances where sexual misconduct is alleged to have occurred. Its express purposes are:

1. To prevent sexual misconduct within the Presbytery of John Calvin.
2. To safeguard the Church=s members and staff from sexual misconduct as well as from false accusation.
3. To seek justice by assuring effectiveness of the church's administrative, investigative, and judicial process in determining truth, protecting the innocent, and dealing appropriately with those who are found guilty of sexual misconduct.
4. To promote healing of all persons, congregations, or entities of the presbytery where sexual misconduct has occurred.

No provision of this policy shall be construed as limiting any rights which may have been granted, or any responsibilities imposed upon anyone by the polity of the Church or the law of the state.

This policy is not meant to address all conduct or standards in relationships. For example, relationships between spouses, or social relationships with others are not covered by this policy.

IV. GUIDING PRINCIPLES

We believe that the scriptures, and our faith in Jesus Christ call all of us to assume high ethical and moral standards in all expressions of our sexual behavior, standards which hold increased importance for all who provide leadership to John Calvin Presbytery and its churches by the very nature of the trust inherent in our positions.

The basic principles guiding this policy are:

1. Sexual misconduct is a violation of our role as leaders who are called upon to demonstrate responsibility, integrity, sensitivity, and caring in a trust relationship. John Calvin Presbytery has no tolerance for such misconduct.
2. Sexual misconduct is a misuse of authority and power which breaches Christian ethical principles by misusing a trust relation to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. Even if someone else initiates or invites sexual contact in the relationship, the person in authority is responsible for maintaining appropriate boundaries and prohibiting a sexual relationship. There is no such thing as Aconsenting adults@ in such a setting.
3. Sexual misconduct takes advantage of the vulnerability of children and persons who are less powerful to act for their own welfare. It is contrary to the Gospel call to work as God=s servant in the struggle to bring wholeness to a broken world. It violates the mandate to protect the vulnerable from harm.

This policy attempts to deal openly and honestly with the issue of sexual misconduct, to provide healing, to help primary and secondary victims as well as perpetrators, and to provide shalom and wholeness for all God's people who are affected by such misconduct or the allegation of such misconduct.

V. SEXUAL MISCONDUCT

What is meant by sexual misconduct is difficult to define with precision and in a way which protects particular persons and at the same time affirms the joy of being created male and female as an essential part of God's act in creation. Sexual misconduct takes many forms from verbal banter to physical violence. It can occur insidiously over time or precipitously in the briefest of moments.

The following behaviors characterize sexual misconduct:

1. Sexual harassment: verbal statement that is known (or ought reasonably to be known) to be unwelcome and offensive to another person and which has the effect of unreasonably interfering with a person's work performance by creating an intimidating or hostile environment at work, in committees, or in other areas of serving God through the work of the Presbytery. Sexual harassment includes, but is not limited to, such things as unwelcome sexual jokes, touching, gesturing, patting, or demanding sexual favors and promises of favors; display of sexual visual images that insult, degrade, or exploit man or woman. Such conduct is always inappropriate, but especially when: [a] submission to such conduct is in any way a term or condition of employment or continued status in the Presbytery, or [b] submission to or rejection of such conduct is used as a basis for employment decisions or workplace evaluations; or [c] submission to or rejection of such conduct is used as a basis for decisions about a person's role within the Presbytery such as election as a Presbytery officer, nomination to Presbytery structures, or acceptance as an inquirer or candidate for ministry.
2. Sexual malfeasance: the broken trust resulting from sexual physical contact within a ministerial or professional relationship. (Adultery, fornication, and any other physical sexual contact are never appropriate behaviors in such relationships.)
3. Sexual abuse: rape or sexual contact by force, threat, or intimidation or misuse of office or position.
4. 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 a third person. The behavior may or may not involve touching. An adult is always responsible for appropriate boundaries and behavior in any situation. Therefore sexual behavior between a child and adult is always considered forced. (A Child as defined here includes those under age 18 and adults without mental capacity to consent.)

(Under Missouri law, child abuse is defined as, "any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control, except that discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse." §210.110(1) RSMo.

Under Kansas law, **'Physical, mental or emotional abuse'** means the infliction of physical, mental or emotional injury or the causing of a deterioration of a child and may include, but shall not be limited to maltreatment or exploiting a child to the extent that the child's health or emotional well-being is endangered.

'Sexual abuse' means any act committed with a child as described in §§ 21-3501 through 21-3504, regardless of the age of the child.)

John Calvin Presbytery proclaims that sexual misconduct in any form is never permissible. It is a violation of ministerial, professional, and employment relationships. The church can never be well served by overlooking an abuse of power and trust. This Policy affirms that the Presbytery will listen, and with clear eyes, acknowledge sexual misconduct when it occurs. Reports of sexual misconduct will be heard with compassion and action.

VI. ALLEGATION RESPONSE

A. Reporting Allegations of Misconduct

Because a governing body cannot control to whom an accuser of sexual misconduct will speak first, it is important that officers, employees, and persons highly visible to congregations and their communities understand how reports of incidents (allegations) are channeled to the right person.

Allegations of sexual misconduct should never be taken lightly or disregarded. Nor should they be allowed to circulate without concern for the integrity and reputation of the accuser, the accused, and of the Church. 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 a sexual misconduct allegation should not undertake an inquiry, or question either the accused or the accuser. If the accuser is hesitant to talk to "higher authorities", the person who has received the initial report has a special pastoral responsibility to build trust and to encourage a willingness on the part of the accuser to speak out, lest the Church be unable to respond because no one is able to give firsthand information. It is expected that this person accompany an accuser in making allegations. A resource person from the Allegations Response Team may be offered to facilitate the writing of the allegation.

Child Sexual Abuse is a criminal action. As such, regardless of what other action be taken within this policy or *Book of Order*, Child Sexual abuse shall (1) be reported to the local department of social services with jurisdictional authority in which the child resides or abuse occurred and (2) shall be reported to the law enforcement agency with jurisdictional authority.

While allegations may come to the attention of any officer of the Church, they are most appropriately made to the General Presbyter, Stated Clerk, or Chair of the Committee on Ministry.

B. Jurisdiction

1. Presbytery is the court of original jurisdiction only for Ministers of the Word and Sacrament and Commissioned Lay Pastors.
2. If allegations are made against a lay employee of the Presbytery, they will be referred to the Personnel Committee of Council for investigation and action.
3. If the allegations are made against an elder or lay volunteer, the allegations will be directed to the Clerk of Session in their home congregation. These allegations will be accompanied by Presbytery's direction that the Session undertake an investigation.

VII. INVESTIGATING COMMITTEE ALLEGATION RESPONSE TEAM

The Presbytery will elect an Investigating Committee pool of six persons and an Allegation Response Team pool of six persons, in three classes of two each. The Chair of the Nominating Committee, Chair of the Committee on Ministry, and Moderator of Presbytery together will nominate these persons, being guided by maintaining diversity and particular expertise. The nomination and election of these pools will also include the naming of the Chairs.

In preparation for their work the Investigating Committee and Allegation Response Team pools shall design and implement a program of continuing education that equips them for their roles. These pools shall develop necessary manuals of operation to guide their work and will furnish these documents to the Presbytery, as well as any guidelines or materials they develop for standard distribution.

A. When an allegation comes to the attention of an officer of the Presbytery from whatever source, an Investigating Committee(IC) of three to five persons (D-10.0201a) shall be formed within three days from the pool in consultation with the Clerk, Presbytery=s Moderator, and the Chair of the Investigating Committee pool. (If the allegations are made against one of these persons, the Chair of the Committee on Ministry or the Council may serve in their place for this purpose.) The Stated Clerk will so inform the Chair of the Allegation Response Team (ART), and shall also inform the Presbytery at its next stated meeting, reporting only that allegations have been made against a member of the Presbytery (unnamed) and that an IC has been formed and the ART is at work.

The IC will proceed to conduct a thorough investigation according to the Rules of Discipline. It shall (summarized as follows):

1. Determine whether a pastor needs to take administrative leave.
2. Provide the accused with a copy of the alleged offense. The statement shall give a clear narrative and allege facts that if proven true would result in disciplinary action.
3. Make a thorough inquiry into the facts and circumstances of the alleged offense.
4. Examine all relevant papers, documents, and records available to it.
5. Ascertain all available witnesses and inquire of them.
6. Determine whether there are probable grounds or cause to believe that an offense was committed by the accused.
7. Decide whether the charge(s) filed - on the basis of the papers, documents, records, testimony, or other evidence - can reasonably be proved, having due regard for the character, availability, and credibility of the witnesses and evidence available.
8. Initiate, if it deems appropriate, alternative forms of resolution in accordance with the provisions for mediation and settlement and reporting in the Rules of Discipline.

After the IC determines whether or not it will file charges (which it shall do within three months of being formed) it shall report to the Stated Clerk, to the person against whom allegations have been made, and to the person who submitted the written statement. (In exceptional cases a longer time than three months may be given with approval by two of three officers – General Presbyter, Stated Clerk or Moderator of General Council). If no charges are filed, the IC shall file a written report of only the facts with the Stated Clerk and notify both the person filing the written statement and the accused.

If the IC decides to file charges, it shall promptly inform the accused in writing of the charges it will make, including a summary of the facts it expects to prove at trial to support those charges. The Committee will ask the accused if he or she wishes to plead guilty to the charges to avoid full trial by the Permanent Judicial Commission and indicate the censure it will recommend to that body. The rights of all parties to be represented by legal counsel in accordance with the Rules of Discipline will not be abridged.

If charges are filed, the IC prosecutes the case. The charge is submitted in writing to the Stated Clerk who forwards it to the Moderator of the Permanent Judicial Commission. The trial of a disciplinary case shall be conducted by the Permanent Judicial Commission in accordance with the Rules of Discipline.

If at any time a person renounces the jurisdiction of the Presbyterian Church (USA) all ecclesiastical process ceases.

B. The Allegation Response Team (ART) acts as a facilitator to respond quickly and objectively in a role of pastoral care for alleged victims and their families; and for congregations or entities which are disturbed by difficult situations, including unfounded charges and rumors; and if requested and appropriate for alleged offenders and their families.

Its responsibilities include notification, needs assessment, identification and coordination of resources to meet those needs, in the context of the stresses and strains of allegations having been made.

The ART is not intended to advocate for or act as legal counsel for any party involved, replace the functions of an Investigating Committee or the Committee on Ministry, determine guilt or innocence of the accused, or enforce any remedy or disciplinary action.

The ART will make timely reports to the Stated Clerk which will include a summary of the ART=s actions, the pastoral care steps taken in support of all parties involved, and any recommendation it wishes to make in the healing process.

In carrying out its work the ART shall take care not to obviate judicial process, nor to compromise the rights of any party to the allegations. The ART will take all necessary steps to provide respect and protection to all persons involved.

In its on-going work the ART has responsibility for recommending and/or implementing educational practices to prevent instances of sexual misconduct.

VIII. POLICY PROVISIONS

A. Support for Congregations

When the pastor of a congregation acknowledges sexual misconduct, or when the members of a church learn that an ART or IC has been appointed by Presbytery to deal with an accusation against their Minister, the congregation becomes a victim of the alleged offense. In such situations the congregation may need special pastoral care and support from the Presbytery.

In order to assist the process of healing and renewal by the congregation, the Committee on Ministry may, when it is deemed appropriate, make available a trained person or team who can assist the congregation toward openness and authentic healing, enabling the church to get back to its primary task of mission as soon as possible.

B. Media Contact

In order to minimize prejudice in any allegation yet to be decided, all inquiries from the media regarding an allegation or charge of sexual misconduct must be directed to the Stated Clerk or the General Presbyter. Questions from the media shall not be addressed by any member of the Allegation Response Team or the Investigating Committee. The Presbytery advises the accuser/alleged victim, the original reporter, advocates for the accused or accuser, or anyone having information about the allegations to refer inquiries from the media to these persons as well.

C. Record Keeping

Chairs of Allegation Response Teams and Investigating Committees will be fully responsible for maintaining all records in strictest confidence, except for those noted in this policy.

Detailed records shall be kept of actions, minutes of deliberations, conversations with the accuser/alleged victim, the accused, and other parties involved, copies of the initial written statement, and all correspondence. All interviews shall be reported for clarity.

After allegations have been resolved, all records shall be forwarded to the Stated Clerk. A summary of the allegations and/or charges, along with the disposition or resolution of them, will be placed in the accused's personnel file. All other records (notes, correspondence, etc.) shall be kept sealed and marked "confidential" - under lock at the Presbytery office. No member of an ART or an IC may keep separate records of confidential material that has been turned over to the governing body as a result of its work.

D. Liability and Insurance

The Form of Government [G-10.0102(o)] provides that each session... has *responsibility and power...* to obtain property and liability insurance coverage to protect the facilities, programs and officers, including members of the session, staff, board of trustees, and deacons. @ (*Italics ours*)

The Presbytery and its congregations should regularly inform their insurance carriers of the activities and programs they operate or sponsor, and of the duties and responsibilities of officers, employees, and volunteers. The standard insurance policy should be enhanced by endorsements to cover specific exposure such as camps, day-care operations, shelters or other outreach programs.

Not all liability insurance policies include sexual misconduct. Presbytery and its sessions should exercise care to assure that they maintain an endorsement to their general liability insurance policy specifically covering sexual abuse and molestation.

E. Relationship to Other Governing Bodies

In dealing with Ministers when transferring from one position to another in the matter of sexual misconduct clearance, the Presbytery will assume responsibility for previous employer reference checks through the General Presbyter or other authorized persons who would report to the Committee on Ministry either that there had been no reported sexual misconduct, or that the Committee should inquire into reported sexual misconduct.

When a Minister has been disciplined by John Calvin Presbytery for sexual misconduct, under no circumstances will that person be transferred to another presbytery without the relevant facts (report of the Permanent Judicial Commission) being provided. Where allegations do not result in disciplinary process, relevant information can only be released when an appropriate waiver, signed by the Minister, is in the hands of this Presbytery. The person within this Presbytery authorized to give a reference is obligated to give truthful information regarding allegations, inquiries, and administrative or disciplinary action relating to sexual misconduct of the applicant.

F. Time Limit

The ability of the Presbytery to respond promptly and justly to sexual misconduct is related in part to the opportunity it has to receive allegations and gather evidence soon after the occurrence. However, this Policy recognizes the special problems related to discovery and recognition of various forms of sexual misconduct. Child sexual abuse, for example, may not be recognized until the victim of abuse reaches adulthood; or recognition of abuse and willingness to come forward by an adult victim may be delayed for years.

The following provisions guide the making and receiving of allegations and the filing of charges:

1. In instances of sexual abuse of another person, there is no limit on the making or receiving of allegations. The only time limit for filing charges shall be one year from the date the Investigating Committee was formed, regardless of the date on which an offense is alleged to have occurred.
2. Except where the offense alleged is sexual abuse of another person, no charges shall be filed later than three years from the time of the commission of the alleged offense, nor later than one year from the date the Investigating Committee was formed, whichever occurs first.
3. If an alternative form of resolution is initiated, the time limits provided here shall be extended for the duration of the process.

G. Compliance

All Ministers, as a prerequisite for reception within John Calvin Presbytery, will be required to sign a statement of acknowledgment (see Appendix 1) indicating that they have received a copy of the Sexual Misconduct Policy and understand that the Presbytery will adhere to the provisions and procedures in it. Continuing members of Presbytery will be required to sign this statement upon adoption of the Policy by the governing body.

APPENDIX 1

Glossary of Terms

The following terms are described fully in the Policy:

Allegation Response Team (ART)	Child Sexual Abuse
Investigating Committee (IC)	Sexual Harassment
Sexual Malfeasance	Sexual Misconduct

The following terms do not constitute an exhaustive list. They are provided with the intent of being helpful particularly to persons who may be unfamiliar with the Church and its procedures. For fuller definitions and explanations one is referred to the BOOK OF ORDER which is well indexed.

- Accused** is the term used to represent the person against whom a claim of sexual misconduct is made.
- Accuser** is the term used to represent 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.
- Allegation** is the assertion of misconduct made by an accuser, sometimes interchangeable with accusation, but distinct from charges.
- Charges** are allegations of an offense that an Investigating Committee is prepared to prosecute against the accused.
- Church** when spelled with the initial letter capitalized refers to the Presbyterian Church (USA). Church when spelled with the initial letter in lowercase refers to the constituent (local) churches. The word congregation is used loosely for members and participants.
- Discipline** is the church's exercise of authority...both in the direction of guidance, control, and nurture of its members and in the direction of constructive criticism of offenders. It provides procedural safeguards and due process.
- Employee** is a comprehensive term used to cover individuals who are hired or called to work for the Church (and/or any entity or governing body of it) for salary or wages.
- Governing Body** is a representative body composed of elders, and ministers of the Word and Sacrament: Sessions, Presbyteries, Synods, and the General Assembly. A governing body may establish entities such as day-care centers, conference centers, camps, or homes for the aged. A governing body may have both church members and nonmembers as employees.
- Inquiry** is the term used in the Rules of Discipline to determine whether charges should be filed based upon allegations of an offense received by a governing body.

- Investigation** is the term generally used by police, secular prosecutors, and child protective services when responding to allegations of an offense.
- Mediation** is a constitutionally provided alternative form of resolution, when charges are imminent, to determine if agreement can be reached between the parties involved.
- Offense** is any act or omission by a member or officer of the church that is contrary to the Scriptures or the *Constitution of the Presbyterian Church (U.S.A.)*.
- Reasonable Suspicion** is a subjective criterion that refers to a belief or opinion based on facts or circumstances that are sufficient for a prudent person to want to inquire further, to take protective action, or to report to authorities.
- Victim** The person against whom sexual misconduct was directed.
- Volunteers** 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.

Appendix 2

Report of Suspected Sexual Misconduct

Reported by: Name _____
Address _____
City, State, Zip Code _____
Telephone _____ Cell phone _____

Date of Report _____

Person Suspected of Misconduct:
Name _____
Address _____
City, State, Zip Code _____
Telephone _____ Cell phone _____

Other Person(s) involved (Victims):
Name _____
Address _____
City, State Zip Code _____
Telephone _____ Cell phone _____

Witnesses:
Name _____
Address _____
City, State, Zip Code _____
Telephone _____ Cell phone _____

Describe incident(s) of suspected sexual misconduct with as much detail as you are able, including date(s), time(s), and locations(s). _____

Identify eyewitnesses to the incident, including name, addresses & telephone numbers, if available. _____

Other information, which may be helpful:

Report take by: _____

Personal and Confidential

Do not reproduce or distribute without permission of the Stated Clerk.

APPENDIX 3

ACKNOWLEDGMENT

I, hereby acknowledge that I received a copy of the Sexual Misconduct Policy of John Calvin Presbytery, Presbyterian Church (USA). I will read the Policy and conduct myself in accordance with it. I understand that the Presbytery of John Calvin will adhere to the provisions and procedures of its Policy. I will make myself available to participate in Presbytery=s educational processes that interpret the Policy.

Name (printed)
Address
Position
Employer
Signature
Date

Please return SIGNED completed form(**original**) to:

John Calvin Presbytery
Attention: COM
2150 West Republic Road
Springfield, MO 65807