

**TRANSYLVANIA PRESBYTERY
PRESBYTERIAN CHURCH (U.S.A.)
SEXUAL MISCONDUCT AWARENESS AND PREVENTION POLICY**

Approved: 11/11/2023

INTRODUCTION

Transylvania Presbytery, in an effort to further the peace, unity, and purity of the church through the awareness and prevention of sexual misconduct within the church, has developed the following policy (hereafter referred to as the Policy).

This policy applies to minister members of the Presbytery, commissioned pastors in a validated ministry, and ruling elder commissioners at the time of the alleged offense. Employees of the Presbytery who are not members of the Presbyterian Church (U.S.A.) shall be accountable through the personnel policies of the Presbytery. Ruling elder commissioners and ruling elders elected to service on any of the presbytery's commissions or ministries must comply with the Book of Order's current boundary training requirements, either by completing the training through their local congregation or under this presbytery policy.

Whereas this policy addresses sexual misconduct by Presbytery Members, each congregation in Transylvania Presbytery is required to develop a policy for church professionals, officers, members, non-member employees, and volunteers which is consistent with this document and the requirements of the Book of Order.

If an inactive or retired minister member or commissioned pastor wishes to be exempt from the Policy, they must sign Appendix B, and refrain from any ministry activities.

PART I

TRANSYLVANIA PRESBYTERY MEMBER SEXUAL MISCONDUCT AWARENESS AND PREVENTION POLICY

THE PURPOSE OF THIS DOCUMENT: To define sexual misconduct by members of Presbytery, to describe the procedures for reporting sexual misconduct to the Presbytery, to describe the procedures for the Presbytery's response, and to suggest procedures for reviewing the policy.

A. Definition of Sexual Misconduct: Sexual misconduct is any offense involving sexual conduct in relation to any person under the age of eighteen years or anyone without the capacity to consent, or any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position. Sexual abuse is contrary to the Scriptures and Constitution of the Presbyterian Church (U.S.A.), and is therefore always an offense for the purpose of discipline. (BOO D-7.09)

B. Prohibitions: Categories of sexual misconduct are described below.

1. Sexual misconduct occurs whenever a person in a position of trust engages in a sexual act, sexual contact, or sexual behaviors with another person to whom he or she owes a professional responsibility. Such misconduct shall include, but not be limited to, the following:

a. Sexual acts or sexual contact with a minor.

b. Sexual acts or sexual contact involving inducement, threat, coercion, force, violence, or intimidation of another person.

c. Sexual acts or sexual contact with an individual with whom they have a pastoral relationship, including consensual physical relationships. The inherent imbalance of power undermines the validity of such consent.

d. Sexual acts or sexual contact with another person who is incapable of appraising the nature of the conduct or physically incapable of declining participation in, or communicating unwillingness to engage in, that sexual act or sexual contact.

e. Sexual acts or sexual contact arising from the administration to another person of a drug or intoxicant which substantially impairs the ability of that person to appraise or control the nature of the conduct.

f. Viewing, storing, or transmitting pornographic material for any purpose on presbytery property and/or with presbytery/church-owned devices, such as, but not limited to, computers, tablets, or smartphones.

g. Compelling another person to view child or adult pornographic media or websites.

2. Child sexual abuse includes, but is not limited to, any contact or interaction between a child under 18 years old and an adult when the child is being used for the sexual stimulation of the adult person or of a third person. The behavior may or may not involve touching. Child sexual abuse between an adult and a child is always considered forced, whether or not consented to by the child. Child sexual abuse is a crime in all states and must be reported to civil authorities and the Stated Clerk of the Presbytery. Anyone who knows or has reason to suspect that child abuse has occurred or is occurring is a mandated reporter under Kentucky law.

3. Sexual harassment includes any sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually offensive nature when:

a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or their continued status in an institution in either a professional or volunteer capacity;

b. submission to or rejection of such conduct by an individual is the basis for employment decisions affecting that individual; or

c. such conduct has the purpose or effect of unreasonably interfering with an individual's work or volunteer performance by creating an intimidating, hostile, or offensive working environment. Sexual harassment can consist of a single intense or severe act or multiple persistent or persuasive acts.

Sexual harassment may include, but is not limited to:

a. sexually-oriented jokes or humor;

b. sexually demeaning comments;

c. verbal suggestions of sexual involvement or sexual activity;

d. questions or comments about sexual behavior;

e. unwelcome or inappropriate physical contact;

f. graphic or degrading comments about an individual's physical appearance;

g. express or implied sexual advances or propositions;

h. display of sexually suggestive objects or pictures; or

i. repeated requests for social engagements after an individual refuses.

C. Prevention: Sexual misconduct is never permissible. It is a violation of the principles set forth in Scripture as well as of pastoral, employment, and professional relationships. Transylvania Presbytery seeks to prevent sexual misconduct in the following ways:

PRE-EMPLOYMENT SCREENING FOR PROSPECTIVE INCOMING TEACHING ELDER/MINISTER OF WORD AND SACRAMENT/COMMISSIONED PASTORS

1. Reference Checks

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

The office of the General Presbyter is responsible for making reference checks through the Synod Executive, Mid-Council Leader, or other authorized persons to ascertain whether those persons have any history of sexual misconduct. The General Presbyter reports to the Pastoral Transitions Commission either that there was no reported sexual misconduct, or that the Commission should inquire into reported sexual misconduct. A written record of conversations and correspondence with references will be kept in the employee's personnel file.

The General Presbyter or the Stated Clerk within the Presbytery is obligated to give truthful information regarding administrative or disciplinary action related to sexual misconduct by the applicant.

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

2. Background Checks

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

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

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

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

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

3. Sexual Misconduct Prevention Training is required by the Transylvania Presbytery every three (3) years. This requirement will be included in all minister members and commissioned pastor contracts and/or terms of call. This Policy is to supersede any congregational policy for Presbytery Members.

All Members shall attend training offered by the Presbytery or another source approved by the Coordinating Commission on the issues of sexual misconduct and its prevention. Failure to attend such a training within one (1) year of being received by the Presbytery, or every three (3) years, will result in a registered letter sent by the Stated Clerk to the Member and the Clerk of Session for that Member's congregation where applicable, informing them that the Member is out of compliance with this policy, and that the Member has 30 days to complete pre-approved online training at the Member's own expense before consequences as outlined below are imposed. The tracking of this information will be shared by the presbytery's administrator and the commission or ministry conducting the in-person trainings.

- a. Installed Members will be placed on unpaid administrative leave and excluded from the exercise of ministry until such time as the training is completed. Such administrative leave shall be automatic, requiring no further action by the Presbytery.
 - b. Members in Temporary/Commissioned/Contracted positions will have their commissions/contracts revoked. Commissions/contracts may be reinstated upon completion of training, at the discretion of the Presbytery.
 - c. The effect of administrative leave for a Minister of Word and Sacrament in a validated ministry beyond the jurisdiction of the PC (USA) is the suspension of the validation of the ministry until the matter is resolved, which shall be communicated to the employer by the stated clerk of the presbytery.
 - d. Retired Members shall not perform any pastoral, administrative, educational, or supervisory duties, and shall not officiate at any functions such as the administration of Sacraments, funerals, or weddings, until such time as training is completed.
4. The Presbytery commits to offering a minimum of one in-person and one virtual training each year. If a Member is unable to attend a Presbytery-offered training, that Member does have the option to complete a different training, pre-approved by the Coordinating Commission, at that Member's expense, and will be required to provide the certificate of completion to the Presbytery for record keeping purposes.
 5. **Liability and Insurance:** The Presbytery and its congregations shall annually obtain from their insurance agents, confirmation that their liability insurance policy covers sexual misconduct liability for its programs and activities.
 6. **Record Keeping:** Transylvania Presbytery will include in every Member's personnel file the application for employment, any employment questionnaires, reference responses, and other documents related to this policy including a signed receipt for receiving the sexual misconduct policy.

PART II

RESPONSIBILITIES AND ROLES OF TRANSYLVANIA PRESBYTERY IN POLICY IMPLEMENTATION

A. REPORTING ALLEGATIONS OF SEXUAL MISCONDUCT

1. REPORTS ARE MADE TO THE STATED CLERK

A person alleging sexual misconduct by someone covered by this policy should make a written report to the Stated Clerk. If the allegation involves the Stated Clerk, then the written report should go to the Presbytery Executive or the Moderator of the Presbytery. The presbytery will respond by using the procedures set forth in the Church Discipline section 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 a written statement that will automatically trigger review under Church Discipline of the *Book of Order*.

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 the Stated Clerk.

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 presbytery be unable to respond because no one is able to give firsthand information.

2. MANDATORY REPORTING OF CHILD ABUSE

As noted in Part 1, B, 2, **Anyone who knows or has reason to suspect that child abuse has occurred or is occurring is a mandated reporter under Kentucky law. According to Kentucky statutes, mandatory reporting of abuse (including sexual abuse) of children or vulnerable adults (18 years of age or older who have mental or physical disabilities that limit their ability to care for and/or protect themselves) is required except in the case of clergy/penitent or attorney/client privilege. In the case of clergy/penitent privilege, a self-accusing adult could not be reported unless that person specifically authorized the clergy person to do so.** The *Book of Order* also 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)

B. RESPONDING TO ALLEGATIONS OF SEXUAL MISCONDUCT BY MEMBERS

The presbytery’s response will vary according to the relationship of the PC(USA) with the person who is accused of sexual misconduct. Members are subject to inquiry and discipline (censure and correction) under the *Book of Order*. Non-member employees and volunteers are subject to oversight and correction by the presbytery’s personnel policies.

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 clerk will report to the presbytery that an offense has been alleged and that the council will proceed according to the procedures set forth in the Church Discipline section of the

Book of Order.

The presbytery 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 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, a 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-7.0902).

2. Accused Not Covered by *Book of Order*

When the presbytery receives an accusation of offense of sexual misconduct against a nonmember employee or volunteer, the procedural response of the presbytery will be guided by the written personnel policies of the presbytery.

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.
- 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 personnel file. The accused shall be allowed to attach any written statements to said documents, also for permanent inclusion in the permanent file.

C. REVIEWING POLICY AND PROCEDURES

1. All Members shall be given copies of the policy and be required to sign an acknowledgment of receipt.
2. This policy will be sent to every clerk of session upon request or when it has been updated.
3. This policy shall be available to members and the public on the presbytery’s website.
4. The presbytery will annually report the status of those trained under this policy and the renewal dates for

compliance.

5. The presbytery will periodically review this policy and suggest changes or updates.

Appendix A

Glossary of Terms

Accused is the person against whom an allegation of sexual misconduct is being made.

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

Mandated Reporter is described by the laws of Kentucky as a person who is required to report any and all suspected incidents of child abuse, including child sexual abuse, that come to their attention.

Appendix B

Letter to inactive retired pastors re: Sexual Misconduct Prevention Training

Dear _____,

You have indicated that you do not wish to participate in our presbytery's Sexual Misconduct Prevention and Remediation Training events, either in-person or on-line.

In order to be considered exempt from this training, you hereby agree to refrain from preaching, teaching, leading classes or seminars, or any other leadership activities in any of the churches in our presbytery.

Should you violate this policy, you agree to hold the Presbytery harmless from any and all claims, damages, fines, costs, and all expenses, including attorney's fees, for all demands, causes of actions, lawsuits, criminal investigations and prosecutions, settlements and related actions arising directly or indirectly as a result of any activity by you which is connected with, or reasonably perceived to be connected with, the Presbytery, including but not limited to any violation of the Presbytery's Sexual Misconduct Prevention and Remediation Policy.

Any activity which you undertake may, and likely will, result in disciplinary action pursuant to D-1.000 et seq. of the Book of Order including, but not limited to, removal from Ordered Ministry.

Signature _____ Date _____

Appendix C

This is a sample designed to implement the sexual misconduct policy. It is necessary that all those under the jurisdiction of this policy acknowledge being in receipt of it. The policy provides protection and empowerment for the member as well as the presbytery.

Form for Implementing Policy of Sexual Misconduct Acknowledgement of Receipt

I hereby acknowledge that I received on _____ (date), a copy of the "Sexual Misconduct Awareness and Prevention Policy," of Transylvania Presbytery, that I have read the policy, understand its meaning, and agree to conduct myself in accordance with the policy.

Signature _____

A similar acknowledgement should be signed at the time amendments to the policy are made and distributed.

Appendix D

This document provides a sample Report of Suspected Sexual Misconduct. It provides space for the names, addresses, and telephone numbers of victims, the accused, possible witnesses, and others involved. It also provides space for a description of the offending behavior as well as other pertinent information. This form or a revision of it should be filed with the Stated Clerk of the presbytery.

Report of Suspected Sexual Misconduct

Reported by: _____

Name _____

Title _____

Address _____

City, State, and Zip Code _____

Telephone _____

Date of Report: _____

Person suspected of misconduct:

Name _____

Title _____

Address _____

City, State, and Zip Code _____

Telephone _____

Other person(s) involved (witness or victims):

Name _____

Title _____

Age _____ Sex _____

Address _____

City, State, and Zip Code _____

Telephone _____

Report of Suspected Sexual Misconduct

Describe incident(s) of suspected sexual misconduct, including date(s), time(s), and location(s):

Identify eyewitnesses to the incident, including names, addresses, and telephone numbers, where available:

Appendix E

Meeting the Needs of All Involved

In cases of sexual misconduct there are needs that have to be met for the good of all persons, groups, and entities. To ensure that the presbytery is ready to meet the variety of needs present, an independent response coordination team may be named. This team will not investigate the allegation or in any way function as an investigating committee for disciplining members or officers, but should confine itself to coordinating a process that will meet the specific needs of victims and their families (if any), the accused and family (if any), congregations, and sessions:

A. The Needs of the Victim

The presbytery and response coordination team should assure that adequate treatment and care are available for alleged victims of sexual misconduct and their families. Sometimes, the victim or family is so angry and alienated from the church, that offers of help may be perceived as insincere or as attempts of a cover-up. If the victim or family at first refuses, the presbytery should continue to offer help. Above all the presbytery should not act in a self-protective manner by ignoring the victim and their families.

The extent of the damage to the victims of sexual misconduct will vary from person to person, and is influenced by such factors as the degree or severity of abuse, the age and emotional condition of the victim, human dynamics, and the importance of one's religious faith. The presbytery and response coordination team is to assume in all cases that the victim has been wounded by the experience.

Feelings of guilt, shame, anger, mistrust, lowered self-esteem, unworthiness, and feelings of alienation from God, self, the religious community, and family are frequent injuries suffered by victims. It is important for the response coordination team to be sensitive to the victim's pain and need for healing, and to act by making appropriate pastoral care available.

The following are some of the needs of the victim:

1. To be heard and taken seriously. From the time that the victim is first able to indicate that sexual misconduct has occurred, that person should receive immediate attention and serious consideration from all church representatives.
2. To receive pastoral and therapeutic support. The victim may require spiritual and professional assistance as a result of sexual misconduct. The response coordination team should offer to help arrange for such support from a pastor and therapist, if the victim desires. Discussions with such people would be confidential, privileged conversations.
3. To be informed about church process and progress with regard to the accusation. One member of the response coordination team should be the presbytery contact person for the victim. Frequently, this contact person will give the victim information as to what is happening in the presbytery as a result of the accusation.
4. To receive legal advice. The response coordination team should suggest that the victim might benefit from independent legal advice. (Legitimate claims might be more effectively pursued and flimsy or false claims discouraged.) If requested, the response coordination team should suggest ways in which independent legal advice can be obtained.

5. To be assured of an advocate of one's own choosing. A victim may need continuing moral support from one individual who is present while the church process deals with the accusation. This advocate may be a relative, friend, or someone suggested by the response coordination team. This advocate could speak for the victim, if necessary.

- To be assured that justice will be pursued. The victim needs to be told by the response coordination team, and shown by the processes of the presbytery, that justice is being pursued through fact-finding, truth-telling, confrontation, and agreement that may include removal or temporary exclusion of the accused from office or adjudication of the complaint.

- To receive healing and reconciliation. In addition to specific forms of restitution mentioned above, the victim needs to receive a sense of healing and reconciliation with all concerned—the self, the family, the church and, ideally, the accused. The response coordination team can help bring this about using the presbytery's processes and resources.

While the above are needs of the victim, one recognizes that all of these needs may also not be met through a reasonable handling of a specific case, but may only occur over a lengthier period of time. All of these needs, however, should be taken seriously and compassionately, and the rights of the victim respected.

B. The Needs of the Accused

The presbytery shall offer treatment and care for the accused as well as alleged victims and families.

Feelings of guilt, shame, anger, mistrust, lowered self-esteem, depression, unworthiness, and feelings of alienation from God, self, the religious community, and family are often experienced by the accused. In addition, there may be fear of job loss, incarceration, and indignation if an allegation is false.

When a person is found not guilty of charges of sexual misconduct, it is important for the presbytery to see that the decision is disseminated as widely as possible within their power, unless doing so would further injure the person accused.

1. Personal Care

Whether the allegations about the accused are eventually found to be true or not, the accused deserves to be treated with Christian kindness and respect.

The response coordination team may suggest that the accused seek spiritual support or professional counseling. People in staff positions, such as presbytery executives or stated clerks, should not engage in personal counseling of the accused because of their potential involvement in disciplinary process.

2. Economic Security and Care for Family of Accused

When an allegation of sexual misconduct has been made against a teaching elder, the economic security of the accused is directly threatened, along with reputation, career, and family relationships. Again, the presbytery can be of assistance. The response coordination team may alert the presbytery to the possible spiritual, emotional, and financial needs of the family of the accused and recommend expert resources.

C. The Needs of a Congregation in a Context of Sexual Misconduct

The presbytery and response coordination team should be aware of the problems a congregation may experience following allegations of sexual misconduct by a teaching elder. The allegations may polarize the congregation or organization, damage morale, create serious internal problems, and even limit the trust a congregation may place in

succeeding pastors. Efforts should be taken to recognize and identify the problems and heal any damage that may be done to the congregation or organization.

When there is sexual misconduct on the part of a teaching elder in a particular congregation, a number of needs unique to that congregation will emerge since sexual misconduct impacts congregations in different ways. Therefore, these needs will not necessarily emerge in the same sequence in each situation. Depending on the parties involved in the sexual misconduct, some of the needs may not emerge. In any event, those managing the presbytery's response to the sexual misconduct will want to know that the following needs may emerge:

1. Pastoral Care

Members and staff of the congregation will need pastoral care. If it is the pastor who is involved in the sexual misconduct, care will need to be provided by another member of the ordained staff (if the church is a multiple-staff church) or by a trained interim pastor. If the pastor leaves as a result of sexual misconduct, in extreme cases a trained interim pastor or consultant in sexual misconduct may need to work with the congregation for an extended period of time. If it is not a pastor who is involved in the sexual misconduct, then the pastor will provide the needed care for the congregation. The pastor, if not previously trained in this specialty area, will need to consult with denominational specialists who will advise him or her how to proceed and any anticipated problems.

2. Information About the Case

Members of the congregation will need opportunities both to receive and give information. If a case of sexual misconduct becomes a matter of public knowledge within a congregation and if a pastor has been found guilty of sexual misconduct, the interim pastor or consultant may hold appropriate meetings with individuals, small groups, or with the whole congregation. Such meetings should provide information about sexual misconduct in general, Presbyterian polity and our judicial process, and how others who may have been victimized may be heard and ministered to. If the offender is not the pastor, then the pastor may perform these functions. At such meetings, one may expect members to vent their feelings. An opportunity for this to happen should be provided. If this venting does not take place, then it may create serious problems for the future of the congregation, for future pastors, and for the governing body.' Dynamics may differ somewhat in racial ethnic churches, but no empirical studies have yet demonstrated different dynamics.

3. Resource Persons

In light of the above needs, the following are several resource persons whose services would be valuable to a congregation in the context of sexual misconduct: a trained interim pastor, a presbytery representative knowledgeable in polity and the effects of sexual misconduct in the church, a consultant or therapist with knowledge and experience in dealing with sexual misconduct, an attorney who can discuss legal aspects of a case, an insurance agent who can advise the congregation about their exposure to liability or coverage.