

COVENANT PRESBYTERIAN CHURCH
Lubbock, Texas
SEXUAL MISCONDUCT POLICY AND CHILD AND YOUTH PROTECTION POLICY AND
PROCEDURES OF COVENANT PRESBYTERIAN CHURCH

I. Policy Statement

It is the policy of Covenant Presbyterian Church (hereinafter referred to as CPC) that all church members, church officers, non-member employees, and volunteers of congregations, organizations, and entities of the church are to maintain the integrity of the ministerial, employment, and professional relationship at all times.

Persons who engage in sexual misconduct are in violation of the principles set forth in Scripture, and also of the ministerial, pastoral, employment, and professional relationship. It is never permissible or acceptable for a church member, officer, employee, or volunteer to engage in sexual misconduct.

Distribution

Copies of this policy and its procedures shall be made available to teaching and ruling elders, groups and entities of CPC. It is intended as guidance for CPC including church members, church officers, employees, and volunteers. This is a policy of the Session which governs and protects all who come to or participate in programs of CPC. This policy and its procedures will be made available to persons who accuse others of misconduct, including those who are or claim to be victims of sexual misconduct and their families.

II. Standards of Conduct

... As [God] who called you is holy, be holy yourselves in all your conduct; ... Tend the flock of God that is in your charge, ... not under compulsion but willingly, ... not for sordid gain but eagerly. ... not lord it over those in your charge, but be examples to the flock.

... You know that we who teach will be judged with greater strictness.

1 Pet. 1:15; 5:2–3; Jas. 3:1, NRSV

The ethical conduct of all who minister in the name of Jesus Christ is of vital importance to the church because through these representatives an understanding of God and the gospel's good news is conveyed. "Their manner of life should be a demonstration of the Christian gospel in the church and in the world" (Book of Order, G-2.0104a).

The basic principles of conduct guiding this policy are as follows:

1. **Sexual misconduct** is a violation of the role of pastors, employees, volunteers, counselors, supervisors, teachers, and advisors of any kind who are called upon to exercise integrity, sensitivity, and caring in a trust relationship. It breaks the covenant to act in the best interests of parishioners, clients, co-workers, and students.

2. **Sexual misconduct** is a misuse of authority and power that breaches Christian ethical principles by misusing a trust relation to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. If the parishioner, student, client, or employee initiates or invites sexual content in the relationship, it is the pastor's, counselor's, officer's, program leader's, or supervisor's responsibility to maintain the appropriate role and prohibit a sexual relationship.

3. **Sexual misconduct** takes advantage of the vulnerability of persons who are less powerful to act for their own welfare, including children. It is antithetical 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.

Definitions

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

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 person or of a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult is always considered forced whether or not consented to by the child. In the Presbyterian Church (U.S.A.), the sexual abuse definition of a child is anyone under age eighteen.

Sexual abuse is defined in the *Book of Order* as: "Sexual abuse of another person is any offense involving sexual conduct in relation to (1) any person under the age of eighteen years or anyone over the age of eighteen years without the mental capacity to consent; or (2) any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position" (*Book of Order*, D-10.0401c).

Sexual harassment as defined for this policy is as follows: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when

- a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or their continued status in an institution;
- b. submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual;
- c. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or offensive working environment; or
- d. an individual is subjected to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit men, women, or children.

Sexual Assault includes, but is not limited to, sexual contact by force, threat, or intimidation, or rape.

Sexual Misconduct is offensive, obsessive or suggestive language or behavior, unacceptable visual contact, unwelcome touching or fondling that is injurious to the physical or emotional health of another.

Sexual Malfeasance is defined by the broken trust resulting from sexual activities within a professional ministerial relationship that results in misuse of office or position arising from the professional ministerial relationship.

Misuse of technology includes texting or emailing suggestive messages and images to a person or persons resulting in sexual harassment or abuse of another person or persons. It is never appropriate to view pornography on church property. When this includes a person under the age of eighteen, it is considered child abuse. There is never an expectation of personal privacy when using technological equipment owned by a church or church entity or within the context of ministry.

III. Church Response to Allegations of Sexual Misconduct

A. Principles

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

In responding to allegations of sexual misconduct, members, officers, and employees of the church should seek to uphold the dignity of all persons involved, including persons who are alleging harm, persons who are accused of sexual misconduct, and the families and communities of each.

CPC, as a PC(USA) congregation guided by *The Book of Order*, has jurisdiction over its members, officers, and employees such that if a member, officer, or employee is alleged to have committed an offense against Scripture or the PC(USA) Constitution, the church has the duty to inquire into the allegations and, if the allegations are proven, to correct the behavior of the member, officer, or employee and ensure the safety of others in the community. Allegations of sexual misconduct are always considered allegations of offense against Scripture or the PC(USA) Constitution that trigger the disciplinary processes of the PC(USA) set forth in the *Book of Order*. In the case of an active non-member who is employed or volunteers with the church, the individual will be covered by the procedures of the written personnel policies of the council or entity. If the person accused of sexual misconduct is no longer a member, officer, or employee of the PC(USA), but the conduct occurred while the person was acting on behalf of the PC(USA), the church does not have jurisdiction to correct the behavior, but it does have a duty to hear the allegations of offense and to take measures to prevent future occurrences of harm. The Session may appoint an administrative committee or commission to hear the allegations of sexual misconduct. The Session may also take measures to prevent future occurrences of harm through education and policy.

B. Reporting Requirements

1. **Reporting Sexual Misconduct:** A person needing to report that a member, officer, employee, or volunteer of the CPC has committed sexual misconduct is encouraged to seek guidance from a CPC teaching elder or ruling elder regarding filing the report.

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

Presbytery: If the person who is accused of committing sexual misconduct is a teaching elder, the report of allegations should be made to the stated clerk of the presbytery. If the report of allegations is placed in writing, the presbytery will respond by using the procedures set forth in the Rules of Discipline of the *Book of Order*.

2. Receiving Reports of Sexual Misconduct

Reports of allegations of sexual misconduct will occur in a variety of ways. Because the leadership of CPC cannot control to whom the abused person will speak first, it is important that officers, employees, and persons highly visible to church members and visitors understand how reports of incidents are channeled to the proper person. The allegations may come from persons who have or who do not have a formal relationship with the CPC and may be made to a variety of officers or leaders within the CPC. It is the duty of these officers to see that any allegation of sexual misconduct is reported appropriately keeping in mind the mandatory reporting requirements for allegations of child abuse. Reports of allegations of sexual misconduct should never be taken lightly or disregarded and allowed to circulate without concern for the integrity and reputation of the abused person, the accused, and the church. Reports of allegations should be dealt with as matters of highest confidentiality, both before and after they have been submitted to appropriate authorities as outlined below. Additionally, reports of alleged sexual misconduct should be filed as soon as possible after a person has received a report of allegations. However, in the church there is no statute of limitations for reporting alleged sexual misconduct. According to the Book of Order, "Charges may be brought regardless of the date in which an offense is alleged to have occurred." D-10.0400b

The first person to learn of an incident of sexual misconduct should not undertake an inquiry alone or question either the abused person or the accused unless the incident is divulged in the process of pastoral care, counseling, or a therapy session.

The person receiving the initial report of allegations of sexual misconduct shall make sure that the allegations of offense are filed following procedures outlined herein.

If the report is made orally, the person receiving the report of allegations should request that the person making the report of allegations place it in writing. A report of allegations of sexual misconduct in writing from a member of CPC alleging another member or officer of CPC committed an offense must be acted on according to the Rules of Discipline of the *Book of Order*. If a clerk or stated clerk receives a report of allegations in writing from a nonmember of the CPC alleging another member or officer of CPC committed sexual misconduct, the report also should be acted on according to the Rules of Discipline of the *Book of Order*. If the person who makes the report is unwilling or unable to place it in writing, any member of the CPC may make the written statement that will automatically trigger the Rules of Discipline of the *Book of Order*.

3. ***Mandatory Reporting of Child Abuse***

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

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

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

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

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

These provisions of the *Book of Order* attempt to balance conflicting moral duties for officers of CPC.

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

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

B. Responding

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

1. Accused Covered by Book of Order

When an allegation of offense of sexual misconduct has been received by the clerk of session, the Clerk of Session will report to Session that an offense has been alleged and that Session will proceed according to the procedures set forth in the Rules of Discipline of the Book of Order.

Session should appoint an investigating committee to inquire into the allegations. The investigating committee must promptly begin its inquiry into the allegations. Delay may cause further harm to the abused person and/or the accused. Session and all entities within the congregation must cooperate with civil authorities in an investigation of child sexual abuse or other criminal sexual misconduct. Church disciplinary proceedings cannot interfere with a criminal investigation by civil authorities and may have to be suspended until these are completed.

The Session has original jurisdiction in disciplinary cases involving members and ruling elders of the church, each congregation having jurisdiction only over its own members.

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

When an allegation of offense of sexual misconduct by a teaching elder has been received by the Clerk of Session, the Clerk of Session will report to the Stated Clerk of Presbytery that an offense has been alleged. The Presbytery will proceed according to the procedures set forth in the Rules of Discipline of the Book of Order.

A presbytery has original jurisdiction in disciplinary cases involving teaching elders. A presbytery may dissolve a pastoral relationship when the "Word imperatively demands it"

(G2.0904). 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 accused of child abuse should be placed on administrative leave (D-10.0106). It is recommended that the permanent judicial commission (PJC) members who will conduct this risk evaluation based upon the allegations and a hearing should also take into account secular legal advice.

2. Accused Not Covered by *Book of Order*

When Session receives an accusation of offense of sexual misconduct against a nonmember employee or volunteer, its procedural response will be guided by the written personnel policies of Session. Its Personnel Committee will respond to the allegation of offense of sexual misconduct doing the following:

- a. Determine whether or not the allegation gives rise to a reasonable suspicion of sexual misconduct by the accused.
- b. If so, gather additional information necessary to make a decision about correcting the behavior.
- c. Determine any remedies, including limiting ministry, suspension, or termination necessary and advisable under the circumstances. If the accused is a member of another denomination, that denomination will be notified of the allegations and the response.
- d. Inform the abused person 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 of the Session in its policies and procedures.

3. Council or Entity Record Keeping

Session should keep detailed records of its actions and minutes of its deliberations and its conversations with the accuser, the accused, and other parties involved, correspondence, and copies of the reports received from committees or commissions. Such records will be kept confidential as far as possible. In Case # 208-6, the General Assembly Permanent Judicial Commission (GAPJC) interpreted the Rules of Discipline to say that a council or entity may share the contents of inquiry reports with other councils or entities of the PC(USA) when necessary. The clerk of Session will maintain the records while the inquiry is in process.

IV. Prevention and Risk Management

A. Implementation

The *Book of Order* requires that Sessions adopt and implement a sexual misconduct policy (G-3.0106) making it a violation of the employer's work rules to engage in sexual misconduct and that encourages reporting of sexual misconduct.

Specific CPC Policies

- 1. There shall be a background check every three years for everyone who works with children and youth.*
- 2. No one under the age of 18 shall be left alone with an adult unless it is their parent, or with express written permission from a parent for a special circumstance.*
- 3. Both men and women sponsors shall be present with mixed gender groups.*
- 4. Sponsors of children and youth groups shall be 21 years of age or older.*
- 5. At least 2 adults over the age of 18 shall be staffing the Nursery at all times, except in the case of an emergency.*
- 6. At least 2 adults over the age of 18 and not related or married shall be present for all children and youth activities, except in the case of an emergency.*
- 7. In circumstances where an adult driver is needed to transport a group of children or youth, that driver must be over the age of 21, in possession of a valid driver's license, and a background check shall be necessary.*

B. Liability and Insurance

Session can be held liable for harm caused by sexual misconduct of an officer, teaching elder or employee based on a number of legal theories. Session will take such potential liability into consideration when establishing hiring and supervisory practices by conducting a background check on all potential candidates immediately before offering a contract.

Session will regularly inform its liability insurance carrier of the activities and programs it operates or sponsors and of the duties and responsibilities of officers, employees, and volunteers. Session will ensure that its insurance policy is enhanced by endorsements to cover specific exposures such as camps, day-care operations, shelters, or other outreach programs. Session will annually obtain an endorsement to their general liability insurance policy specifically covering sexual abuse and molestation. Such coverage will provide for legal defense expenses and judgments in civil suits brought against Session, its officers, directors, or employees.

V. Educating and Training- Awareness

Session will educate teaching and ruling elders, volunteers, officers, exempt and non-exempt staff, employees, and members of the congregation about sexual misconduct and the elements of this policy. Education for these persons and groups will be different on a group-by-group basis. The goal is for persons to have a common knowledge regarding professional and ministerial boundaries and this policy. It is important for education to take place in a proactive manner rather than in response to an actual case of misconduct. This training will be required upon employment, when beginning a ministry role with children and youth, or when installed as an active member of the Session. This training shall be renewed every 2 years.

Approved by Session, February 11, 2018

**Acknowledgement of receipt of this policy by employees or volunteers shall be signed, dated, and kept on file.*

Appendix A

Definitions

Accused is the term used to represent the person against whom a claim of sexual misconduct is made.

Accuser is a term used to represent the person claiming knowledge of sexual misconduct by a person covered by this policy. The accuser may or may not have been the abused person of the alleged sexual misconduct. A person such as a family member, friend, or colleague may be the accuser.

Church when spelled with the initial capitalized refers to the Presbyterian Church (U.S.A.). Church when spelled with the initial in lowercase refers to local churches. The word congregation is used loosely for members and participants.

Employee is the comprehensive term used to cover individuals who are hired or called to work for the Church for salary or wages.

Entity is the term used to refer to any program or office managed by a board, committee, council, session, or other body whose membership is elected by a council.

Council is a representative body composed of ruling elders and teaching elders: sessions, presbyteries, synods, and the General Assembly. A council may establish entities such as day-care centers, conference centers, camps, or homes for the aged. A council 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 council (the Session. See *Book of Order*, D-10.0000.

Mandated Reporter includes a person under the PC(USA) constitution who is mandated to report to the civil authorities any reasonably held belief that there will be future harm and is also described by some states' laws 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. State laws vary from defining "all persons having knowledge" as mandated reporters to specifying very limited lists of professions whose members are required to report.

Persons Covered by this policy includes church members, church officers, teaching elders, and nonmembers who are employees or volunteers of CPC.

Response is the action taken by the council (session)_or entity when a report of sexual misconduct is received. It may include (1) inquiry into facts and circumstances, (2) possible disciplinary action (administrative or judicial or both), (3) pastoral care for abused persons and their families and others, and (4) pastoral care and rehabilitation for the accused and care for their families.

Civil Authorities are the governmental bodies, whether city, county, state, or federal, who are given the responsibility to investigate, criminally prosecute, and/or bring civil charges against individuals accused of sexual crimes or offenses against adults and children.

Secular Law is the body of municipal, state, and federal laws and is often referred to collectively as civil and criminal law. Prohibited behavior addressed by this policy may result in criminal and/or civil charges filed under secular law.

Abused Person is a person claiming to have been harmed and/or abused by a person covered under this policy.

Volunteer is the term used for those who provide services for CPC. 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.

Appendix B

The following forms are included in this appendix:

1. Report of Suspected Sexual Misconduct for gathering basic information to be passed along to the appropriate person or group handling sexual misconduct cases for a unit or other entity.
2. Form for Implementing Amendments to the Sexual Misconduct and Child and Youth Protection Policy of CPC Covenant Presbyterian Church as it distributes its sexual misconduct policy to employees and others.
3. Form for Implementing the Policy of Sexual Misconduct of CPC Covenant Presbyterian Church as it distributes its sexual misconduct policy to employees and others.

Note: All existing personnel policies and employee handbooks should be updated to include a Sexual Misconduct and Child and Youth Protection Policy.

Report of Suspected Sexual Misconduct

Date of Report: _____

Reported by: _____ Title: _____

Address: _____

Telephone: _____

Person suspected of misconduct: _____ Title: _____

Address: _____

Telephone: _____

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

Identify eyewitness to the incident(s), including the names, addresses, and telephone numbers where available:

**Amendment(s) to Sexual Misconduct and Child and Youth Protection Policy and
Procedures of Covenant Presbyterian Church
Acknowledgement of Receipt**

I hereby acknowledge that I have received a copy of the amendments to the "Sexual Misconduct and Child and Youth Protection Policy and Procedures of Covenant Presbyterian Church, Lubbock, Texas" and that I have read the policy, understand its meaning, and agree to conduct myself in accordance with the policy.

Signature _____ Date _____

**Sexual Misconduct and Child and Youth Protection Policy and
Procedures of Covenant Presbyterian Church
Acknowledgement of Receipt**

I hereby acknowledge that I have received a copy of the "Sexual Misconduct and Child and Youth Protection Policy and Procedures of Covenant Presbyterian Church, Lubbock, Texas" and that I have read the policy, understand its meaning, and agree to conduct myself in accordance with the policy.

Signature _____ Date _____