

**MID-KENTUCKY PRESBYTERY
PRESBYTERIAN CHURCH (U.S.A.)
TEACHING ELDER SEXUAL MISCONDUCT POLICY
Approved: June 11, 2015**

INTRODUCTION

The Mid-Kentucky Presbytery, in an effort to further the peace, unity and purity of the church through the prevention and remediation of sexual misconduct within the church, has developed the following policy. The structures and procedures for responding to allegations of sexual misconduct are mandated by the Book of Order. This policy applies to all Teaching Elder members of the Presbytery. Others who serve the church, paid and volunteer, are under the jurisdiction of the session of the particular church.

PART I MID-KENTUCKY PRESBYTERY TEACHING ELDER SEXUAL MISCONDUCT POLICY

THE PURPOSE OF THIS DOCUMENT: To define sexual misconduct by Teaching Elder members of Presbytery and to describe the procedures for reporting sexual misconduct to the Presbytery.

A. Definition of Sexual Misconduct: Sexual misconduct in the Teaching Elder relationship is an abuse of authority and power, breaching Christian ethical principles by misusing a trust relationship to gain advantage over another for personal gratification in an exploitative and unjust manner. It is the comprehensive term used in this policy to include: sexual abuse of children or adults, rape or sexual assault, and sexual harassment. Categories of sexual misconduct are described below.

1. Sexual abuse 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 abuse 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 contact between Teaching Elders and persons with whom they have a professional relationship. This includes consensual physical relationships. Sexual relationships even when consensual are not acceptable regardless of whether pastoral care is involved. The inherent imbalance of power between the Teaching Elder and a congregant 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. 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. Rape or sexual assault is a crime in every state and should be reported to civil authorities and to the Stated Clerk of the Presbytery.

4. 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:

- sexually oriented jokes or humor;
- sexually demeaning comments;
- verbal suggestions of sexual involvement or sexual activity;
- questions or comments about sexual behavior;
- unwelcome or inappropriate physical contact;
- graphic or degrading comments about an individual's physical appearance;
- express or implied sexual advances or propositions;
- display of sexually suggestive objects or pictures;
- repeated requests for social engagements after an individual refuses;

B. Policy on Sexual Misconduct.

1. Sexual misconduct is never permissible. It is a violation of the principles set forth in Scripture as well as of Teaching Elder, pastoral, employment, and professional relationships. Sexual misconduct by a Teaching Elder violates the ordination vows of the Presbyterian Church (USA) and the Standards of Ethical Conduct for the Mid-Kentucky Presbytery.

2. All Teaching Elder members of the Presbytery shall attend training offered by the Presbytery or another source satisfactory to the Commission on Ministry on the issues of sexual misconduct. All candidates and inquirers of the Presbytery shall attend a training offered by the Presbytery or another source satisfactory to the Commission on Preparation for Ministry on the issues of sexual misconduct. Failure to attend such a training within one year of being received by the Presbytery will result in the Teaching Elder member being placed on unpaid administrative leave and excluded from the exercise of ministry until such time as the training is attended. Such an administrative leave shall be automatic, requiring no further action by the Presbytery. Sexual Misconduct training is required by the Mid-Kentucky Presbytery every three (3) years.

3. Whereas this policy addresses sexual misconduct by Teaching Elders, each congregation and organization in Mid-Kentucky Presbytery is responsible for developing a policy for church professionals, officers, members, non-member employees, and volunteers which is consistent with this document.

PART II RESPONSIBILITIES AND ROLES OF MID-KENTUCKY PRESBYTERY IN POLICY IMPLEMENTATION

A. AVAILABILITY OF POLICY AND PROCEDURES

1. All Teaching Elders shall be given copies of the policy and be required to sign an acknowledgment of receipt.
2. This document shall also be available to all church members and to the public.
3. Presbytery employees shall receive this document as a supplement to the employee handbook.

4. This policy will be sent to every clerk of session upon request or when it has been updated. The policy will be available at all times on the presbytery's web site.

B. MANAGEMENT OF ALLEGATIONS OF SEXUAL MISCONDUCT BY TEACHING ELDERS

1. Resource Documents

The responsibilities, structures and procedures for responding to allegations of sexual misconduct are mandated in part by the Book of Order, such as the roles of the Commission on Ministry and an Investigating Commission (see G-11.0502 and D-10.0200).

2. 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.

3. Record Keeping

Mid-Kentucky Presbytery will include in every employee's personnel file, including Teaching Elders, 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.

C. PRE-EMPLOYMENT SCREENING FOR PROSPECTIVE INCOMING TEACHING ELDER

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 Information Form when interviewing persons seeking Teaching Elder calls.

The office of the Presbyter for Community Life 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 Presbyter for Community Life reports to the Commission on Ministry 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 Teaching Elder's/employee's personnel file.

The Presbytery for Community Life or the Stated Clerk within the Presbytery is obligated to give truthful information regarding complaints, inquiries, and 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 Teaching Elders 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 Commission on Ministry's clearance process, all prospective incoming Teaching Elders shall be required to sign a written consent and release form authorizing the criminal record background check. The Commission on Ministry will provide all prospective incoming Teaching Elders with a written disclosure that a criminal record background report will be requested. Only the Presbyter for Community Life or the Stated Clerk 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 Presbyter for Community Life and the Commission on Ministry will counsel both with the prospective Teaching Elder and the calling congregation where appropriate. At the same time, Commission on Ministry will take with full seriousness the failure of incoming prospective Teaching Elders to volunteer critically important information regarding criminal history.

The Presbyter for Community Life and Stated Clerk shall ensure the confidentiality and appropriate retention of criminal record background reports.

A Teaching Elder 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.

D. EDUCATION

Mid-Kentucky Presbytery has a commitment to offer, provide resources for, and to publicize educational opportunities to prevent sexual misconduct in the church.

PART III POLICY ON RESPONSE TO ALLEGATIONS OF SEXUAL MISCONDUCT BY TEACHING ELDERS

1. Known or suspected sexual misconduct by a Teaching Elder shall be reported to civil authorities and to the Stated Clerk.

2. Sexual abuse involving children and allegations of rape, sexual assault, or other misconduct that violates criminal law shall be reported to civil authorities and to the Stated Clerk.

3. In the event that an alleged incident of sexual harassment comes to the attention of the Clerk of Session, the Stated Clerk of the Presbytery will contact the accuser/victim and discuss the following alternatives:

a. The Session or employing agency level: referring the matter to the church session and/or personnel committee for their consideration and action.

b. The Commission on Ministry level: requesting an intervention by the Commission on Ministry or its representatives.

c. The Presbytery level: directly proceeding to the judicial process defined in the Book of Discipline.

Out of this conversation each participant shall determine the appropriate level of intervention and offer that view to the others.

- If all parties (including the accuser and/or victim) believe alternative “a” should be the course of action, it shall be pursued.
- If any one or more of the parties believes alternative “b” should be pursued, then “b” shall be pursued unless any one party or more believes alternative “c” should be pursued, then alternative “c” will be pursued.
- Beginning with alternative “a” does not preclude shifting the approach to alternative “b” or “c” at a later time.
- Alternative “c” does require the participation of the accuser/victim.
- The accuser/victim can proceed to disciplinary process (alternative “c”) at any time he or she may choose independent of any other party.

4. Teaching Elders are subject to inquiry and discipline under the Book of Order Rules of Discipline. A final report, including any charges filed, and actions taken shall be made by the Stated Clerk to the Presbytery. A copy of the report will be filed in the permanent personnel file of the accused.
5. A written complaint to the Stated Clerk alleging sexual misconduct by a Teaching Elder member of the Presbytery subjects that Teaching Elder to any policy on administrative leave in effect.
6. A Teaching Elder may make a written confession of misconduct without a victim's complaint to the Stated Clerk. The Clerk will proceed under the Book of Order Rules of Discipline.
7. The Presbytery will respect the rights of all parties involved: accusers, victims, accused, and an involved congregation. These rights include:
 - a. To be heard and taken seriously. From the time that sexual misconduct is reported, all persons shall receive immediate attention and serious consideration from those representing the Presbytery. A reasonable attempt to identify and to locate the victim(s) will be made in the case of self-accusal.
 - b. To be informed about church procedures with regard to the accusation. One member of the Commission on Ministry or the Permanent Judicial Commission will be the Presbytery contact for each party involved.
 - c. To obtain legal advice.
 - d. To be offered an advocate trained by the Commission on Ministry. While Mid-Kentucky Presbytery proceeds to deal with the accusation, the Presbytery has the responsibility to provide each party involved moral support from an individual who is available to him or her or them.
 - e. To be assured that justice will be pursued through the procedures set forth in the Book of Order and this Policy.
 - f. To become engaged in work toward healing and reconciliation.
8. The Presbytery shall design a plan for provision of counseling or reimbursement of counseling fees for the victim(s) that involves Presbytery, the victim's(s') insurance, the perpetrator, congregation or its insurance for a reasonable period of time, up to a maximum of one year.

APPENDIX

Glossary of Terms

Accused is the person against whom a claim 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.

Advocate is a person trained by the Commission on Ministry in the issues of sexual misconduct and to provide support, and emotional and physical presence, to either the alleged victim(s) and their family, the accused, family members of the accused, or the congregation involved in a sexual misconduct case. The advocate also provides clarification of the investigative process of the church and the judicial process of the church to the person(s) with whom he or she works. The role of an advocate is not to speak for the party for whom he or she is advocate but to inform that party of his or her rights within the investigative process. The advocate shall not give advice regarding civil remedies. When requested by the party for whom she or he is advocate, the advocate may accompany that person to meetings of Presbytery entities when that party is testifying.

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.