

San Diego Presbytery

Sexual Harassment and Misconduct Prevention Policy - 2018

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 intent of all approaches to prevention is to help us recognize our corporate accountability for the integrity of ministry (by clergy and others in church leadership positions) and guide us toward responsible exercise of the power entrusted to the position.

It is the policy of the San Diego Presbytery that all church members, church officers, non-member employees, and volunteers of congregations, governing bodies, 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 nor acceptable for a church member, officer, employee, or volunteer to engage in sexual misconduct.

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.
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, volunteer, officer, or employee initiates or invites sexual content in the relationship, it is the pastor's, counselor's, officer's, or supervisor's responsibility to maintain the appropriate role and prohibit a sexual relationship. It is also their responsibility to immediately report to the Stated Clerk any sexual overture by a parishioner, student, client, volunteer, officer or employee.
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.

1. Scope

This specific policy applies only to those situations in which the person has been accused of sexual misconduct while acting within the course and scope of duties as a designated representative of the Presbytery of San Diego. Such persons include Presbytery of San Diego employees, elected officials, committee members, and volunteers (hereinafter, "Designated Representatives"). Designated Representatives include the following individuals:

- Ordained clergy persons on the Presbytery of San Diego rolls
- Inquirers and candidates under care of the Presbytery of San Diego

- Leaders of Presbytery-sponsored events while they are at and are in transit to and from the events. Leaders are defined as Presbytery staff or volunteers who provide services for governing bodies and entities of the Presbytery. Volunteers include persons elected, appointed, or selected to serve on boards, committees, and other Presbytery-led groups.
- Professional lay persons employed by the Presbytery of San Diego in both exempt and non-exempt positions.
- Commissioned Ruling Elders

This policy does not apply to accused persons who are employees of the churches within the Presbytery of San Diego or any other entities, boards, or agencies to which the Presbytery does not elect or appoint a majority of the governing body. These groups are responsible to adopt and implement a sexual misconduct policy specific to their organization. Per the *Book of Order* G-3.0106 the councils of all congregations or other entities related to the Presbyterian Church (USA) within the Presbytery shall adopt and implement a sexual misconduct policy and a child and youth protection policy. Complaints involving members of such an organization should be directed to the designated representatives of the organization.

This policy supplements, but does not replace any provision of the Book of Order. To the extent that any inconsistency may arise between this policy and the Book of Order, the Book of Order shall govern.

2. Definition of Sexual Misconduct

Sexual Misconduct by a Designated Representative is the comprehensive term used in this policy to include:

1. *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 Presbytery of San Diego, the sexual abuse definition of a child is anyone under age eighteen (18).
2. *Sexual abuse* as defined in the PC(USA) *Book of Order*: “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).
3. *Sexual harassment* is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual 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;
 - b. submission to or rejection of such conduct is used as the basis for employment decisions that affect 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.
4. *Rape* or sexual contact by force, threat, or intimidation.
5. *Sexual conduct* that is offensive, obsessive, or suggestive language or behavior, unacceptable visual contact, and/or unwelcome touching or fondling that is injurious to the physical or emotional health of another.
6. *Sexual Malfeasance* is the result of trust broken when a person in a position of pastoral responsibility misuses his/her position and/or power to engages in sexual activity(ies).
7. *Misuse of technology*: use of technology that results in sexually harassing or abusing another person, including texting or emailing suggestive messages and images to persons with whom one has a ministerial relationship. 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.

Examples of sexual misconduct includes, but is not limited to, the following behaviors:

- Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations, comments, posts, or messages;
- Visual displays such as derogatory and/or sexually-oriented posters, photography, Internet sites, cartoons, drawings, or gestures;
- Sexual acts or sexual contact with a minor;
- Sexual acts or sexual contact involving inducement, threat, coercion, force, violence, or intimidation of another person;
- Physical conduct including assault, unwanted touching, intentionally blocking normal movement or interfering with work because of sex or gender;
- Sexual acts or sexual contact with a person while in the context of a professional relationship;
- Sexual acts or sexual contact with a person who is mentally incapable of understanding the nature or consequences of the behavior or is physically incapable of declining participation;
- Sexual acts or sexual contact involving the use of drugs or intoxicants that impair the ability to govern the situation;
- Rape and physical assault of a sexual nature;
- The use of pornographic materials, including on the Internet within the course and scope of work;

- Threats and demands to submit to sexual requests or sexual advances as a condition of continued employment, or to avoid some other loss and offers of employment benefits in return for sexual favors;
- Retaliation for reporting or threatening to report harassment; and
- Communication via electronic media of any type that includes any conduct that is prohibited by state and/or federal law or by Presbytery policy.

3. Prevention

The Committee on Preparation for Ministry (CPM) shall require that candidates under care of the San Diego Presbytery certify that they have either:

- Completed a recent course in seminary that addresses professional ethics in the areas of sexuality and their own relationships with persons in the church, or
- Attended the training provided for pastors in the San Diego Presbytery.

4. Authority and Responsibility within the Presbytery

The Committee on Ministry (COM) has primary responsibility for implementation and monitoring the execution of this policy. The COM shall:

- Ensure that the San Diego Presbytery provides mandatory training on this subject at least every two years for all teaching and commissioned ruling elders in the Presbytery and ensure that all teaching elders transferring into this Presbytery receive training in this policy.
- Provide each teaching elder and commissioned ruling elder in the Presbytery with a copy of the policy (and any updates made to the policy) with a form to be signed and returned to the Stated Clerk of the Presbytery. The signature on the form will indicate that the policy has been received and read. The Stated Clerk will manage these records as part of the personnel file.
- Conduct background and reference checks that specifically inquire about sexual misconduct of teaching elders and commissioned ruling elders being considered for calls in the San Diego Presbytery.
- Provide an annual report that outlines policy updates and trainings held to the San Diego Presbytery each year.

5. Anti-Retaliation

Retaliation is that conduct, behavior, or words exercised in retaliation for reporting or threatening to report sexual misconduct, or for participating in an internal investigation.

The Presbytery of San Diego will not retaliate against anyone for filing a complaint or participating in any workplace investigation or complaint process and will not tolerate or permit retaliation.

Retaliation should be immediately reported to a member of the Human Resources Committee, the Stated Clerk of the Presbytery, or the Executive Presbyter. These individuals will take immediate steps to stop the retaliatory behavior.

6. Reporting Process

The Presbytery of San Diego encourages all individuals to immediately report any conduct forbidden by this policy so that complaints can be promptly and fairly resolved. A report should be made by anyone who experiences, witnesses, hears about, receives complaints about, or suspects such conduct.

1. Complaints should be made to the Stated Clerk of the Presbytery or a member of the Presbytery's Human Resources Committee. When complaints are made to a member of the Human Resources Committee member, that member will apprise the Stated Clerk of the complaint as soon as possible. The Stated Clerk of the Presbytery will immediately notify the Executive Presbyter and the Chairman of COM of any complaints.

CONTACT INFORMATION: Stated Clerk: 619.224.2490 x 104. Chair of HR Committee: call Presbytery administrative office, 619.224.2490 x 100, for the chair person's name and phone number.

Anyone in a supervisory position must immediately refer all complaints that involve conduct prohibited by this policy to the Stated Clerk of the Presbytery or a member of the Presbytery's Human Resources Committee.

2. The person receiving the complaint should reassure the complainant that the complaint is being taken seriously and that the Presbytery will promptly, fairly and thoroughly investigate the issues raised.
3. The following guidelines apply to the complaint:
 - a. The Rules of Discipline under the current Book of Order will be followed to the extent applicable.
 - b. Complainant should provide all known details of the incident or incidents, names of individuals involved and names of any witnesses. Complainant should present the complaint in writing, although this is not mandatory. The complaint form, which is appended to this policy, should be completed by the complainant. If a person needs assistance with the complaint, s/he should contact the Stated Clerk of the Presbytery or a member of the Presbytery's Human Resources Committee. If complainant makes only a verbal complaint, the recipient of the complaint should put it into writing, using the aforementioned form, and include all information provided by the complainant, have the complainant sign and then immediately provide the written complaint to the Stated Clerk of the Presbytery.
 - c. All complaints of sexual misconduct will be taken seriously.
 - d. Accused individuals will be given an opportunity to respond.
 - e. Complaints will be:
 - Investigated in prompt, thorough and fair manner.

- Kept confidential, except to the extent reasonably necessary to conduct the investigation and take any remedial actions, or as required by law. The Presbytery of San Diego may bring the matter to the attention of appropriate law enforcement authorities when appropriate.
- Investigated impartially by qualified personnel.
- Documented and tracked for reasonable progress.
- Closed in a timely manner with a reasonable conclusion based on the evidence collected.

Where misconduct is found, the Presbytery will choose appropriate remedial measures. The remedial action will be taken commensurate with the severity of the offense according to the discretion of the Presbytery. Any persons within the scope of this policy determined by the Presbytery of San Diego to be responsible for sexual misconduct will be subject to appropriate disciplinary action. All persons under scope of this policy should know that if they engage in unlawful misconduct, they can be held personally liable in civil court.

7. False allegations

If during the investigation it is found that an accusation is false, or after disciplinary proceedings the accusations are found to be false (or not sustained), the accused may request an inquiry for vindication under Book of Order, “Rules of Discipline” D-9.0101.

Making a false accusation of sexual misconduct is a serious offense and may result in the bringing of disciplinary charges against the accuser.

8. Record Keeping

The Presbytery of San Diego will 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. The Stated Clerk of Presbytery will maintain the records while the inquiry is in process and will retain the records following closure of the case as required by law.

9. Distribution and Training

Once the final form of this new policy is approved by the Presbytery, or its amended or revised form from time to time, a copy of said policy will be provided to every pastor and CRE in the Presbytery for distribution and training, as said pastors and CREs deem appropriate. Copies of this policy will be provided to all employees of the Presbytery at the time of hire and periodically as the policy is amended. The Presbytery through its COM, will arrange for periodic training on this subject. Contact the Chair of COM for additional information or clarification of any portion of this policy.

10. Acknowledgement of Receipt of the Sexual Harassment and Misconduct Prevention Policy

I acknowledge that I have received a copy of, read, and understand the Sexual Harassment and Misconduct Prevention policy of The Presbytery of San Diego. I understand that failure to comply with the policy will result in disciplinary action up to and including termination of employment.

Employee Signature

Date

Employee Name (please print)