

POLICY ON SEXUAL MISCONDUCT

Presbytery of Boise

(To be presented to the presbytery in April, Voted on in August 2010)

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Introduction

Theological Rationale

The people of God live out their faith in the midst of a particular historical reality. Inherent in every time is promise and possibility, opportunities for the ministry and the mission of the Church of Jesus Christ to be carried forth. While affirming that God created us to live together in ways that proclaim the worth and dignity of each individual, human sexuality has been a basis for oppression, degradation, violence and injustice - manifestations of our sinful nature.

Our sexuality is a gift from God and when rightly used, leads us to the wholeness of life that God intends for all people. Those who serve through the offices of the Church bear particular responsibility in making manifest the goodness of God's gift of sexuality.

The ethical conduct of all who minister in the name of Jesus Christ is of vital importance to the Church, for through them, an understanding of God and the gospel's good news is conveyed.

Purpose and Scope

1. Purpose
It is the purpose of this policy:
 - a. To define sexual misconduct in the Presbytery of Boise and to provide standards for behavior to members of the Presbytery of Boise: ordained ministers, presbytery employees or other staff;
 - b. To provide for measures to prevent the occurrence of sexual misconduct;
 - c. To serve as a companion to the Book of Order (Presbyterian Church U.S.A.) but not to supersede any of its provisions.

2. Scope
The persons governed by this policy are all members of the Presbytery of Boise including ordained Ministers, Commissioned Lay Pastors, Presbytery employees or other staff.

This policy does not purport to regulate sexual conduct within the particular churches of the Presbytery of Boise.

3. Other Policies and Procedures
This policy is to be interpreted and applied consistently with any and all other applicable policies of the Presbytery of Boise, the Presbyterian Church (U.S.A.), and federal, state and local law.

Definitions

Sexual Misconduct and Sexual Harassment defined generally:

Sexual misconduct is a general term that includes but is not limited to the following acts:

- Physical sexual contact within the context of a ministry, employment, teaching, or advisory relationship, whether or not consented to;
- Sexual misconduct includes a voluntary consensual sexual relationship between ministers and parishioners, supervisors and supervised, or with anyone involved with performance review or decisions about compensation, promotion or continued employment. The inherent balance of power between the minister and the layperson undermines the validity of such consent.
- Sexual misconduct includes using or viewing sexually oriented, sexually-explicit or obscene materials on church property or with church equipment such as computers or televisions.

Sexual harassment is described in federal law as is follows:

- Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when;
 - Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
 - Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual, or;
 - Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile or offensive work environment.

Sexual misconduct and harassment is a misuse of authority and power, which breaches the trust of leadership.

Specific definitions of Sexual Misconduct and Sexual Harassment:

A. Sexual Misconduct:

Sexual misconduct is the comprehensive term used in this policy to cover the following:

1. **Child sexual abuse** is sexual conduct involving a person over the age of 18 and a child under the age of 18 or anyone over the age of 18 without the mental capacity to consent. The behavior may or may not involve touching. Sexual conduct involving an adult and a child is always considered forced whether or not there is consent.

2. **Sexual malfeasance** is sexual conduct within a ministerial or professional relationship.

It includes unwelcome sexual advances, requests for sexual favors or conduct of a sexual nature, as well as consensual romantic relationships.

B. Sexual Harassment

Sexual harassment is an unwelcome sexual advance, verbal or physical contact, or display of sexually related material when:

- a. submission is explicitly or implicitly made a condition of employment, service or care;
- b. such conduct affects morale or performance of the individual or others involved in the situation; or
- c. reasonable persons in the work setting find the material offensive.

C. Presbytery Entities Involved In Sexual Misconduct Cases:

1. The **Presbytery Executive** maintains his or her role as resource to the Committee on Ministry. The Presbytery Executive may be the point of entry when an allegation of misconduct is made, and will direct the allegation to the proper person(s).
2. **Committee on Ministry** continues in its constitutional role to ministers and congregations, particularly where pastoral vacancies occur. When appropriate, the Committee on Ministry is to facilitate the employment of interim leadership competent to manage any conflict associated with the sexual misconduct case. The committee facilitates the relations between congregations, ministers, and the Presbytery, and resolves difficulties on behalf of the Presbytery when possible and expedient.
3. The **Stated Clerk** receives the initial complaint and notifies the appropriate person(s) that a complaint has been received. The Clerk consults with the Presbytery Executive and the Committee on Ministry. The Clerk refers recommendations from the Investigating Committee to the Permanent Judicial Commission.
4. The **Special Investigating Committee** is a group appointed by the Presbytery Moderator, Moderator of Council, Chair of the Committee on Ministry in consultation with the Stated Clerk and Presbytery Executive, whenever a written statement of offense is received by the Stated Clerk. The Special Investigating Committee is charged, under the Rules of Discipline, with conducting a full investigation of an allegation of sexual misconduct, determining whether or not charges are to be filed, and prosecuting the case if there is one.
5. The **Permanent Judicial Commission** is the continuing body elected by the Presbytery to conduct trials when an investigating committee files charges. The commission's structure and duties are described in the Book of Order (D-5.000).
6. The Book of Order (D-10.0000) will be followed precisely in the process for accusation and investigation.

Prevention

The presbytery will provide educational programs and training in pastoral care and disciplinary procedures aimed at preventing sexual misconduct.

A. DISTRIBUTION/ACKNOWLEDGEMENT OF THIS POLICY:

1. Distribution of Policy

- a.** This policy shall be distributed to all of the following: ordained ministers, Presbytery employees and other staff: who will sign a written acknowledgement indicating that she/he has received, read, understands and agrees to conduct her/himself in accordance with this Policy. The signed acknowledgement shall be kept in the person's file.
- b.** This policy shall be made available by the Stated Clerk to all persons who report or present allegations of sexual misconduct, and to all persons against whom allegations are filed.

B. MANDATORY EDUCATION

There will be presbytery wide training on this new policy after its adoption.

The Presbytery of Boise requires that the following persons shall complete a Presbytery-sponsored training workshop regarding the forms of sexual misconduct addressed in the policy: ordained Ministers, Commissioned Lay Pastors, Presbytery employees and other staff. These persons shall be required to participate in a day-long training within 2 years of the implementation of this policy, or being received into presbytery membership or employed by the presbytery, with participation in on-going training every 3 year years. An exemption may be allowed for retired pastors of the presbytery, to be approved by the committee on ministry and the presbytery.

The workshop will be the arranged by the Presbytery Executive and the Stated Clerk in conjunction with the Committee on Ministry.

The names of those who have not completed the training workshop will be noted in a Committee on Ministry report to Presbytery, and the Committee on Ministry will initiate appropriate action to secure compliance with this requirement.