

## **Policy and Procedure Regarding Allegations Of Sexual Misconduct**

*(Adopted on November 27, 2018 and immediately effective)*

The ethical conduct of all persons who minister in the name of Jesus Christ is of vital importance to this Church, because through these representatives an understanding of God and the gospels' good news is conveyed. It is incumbent upon the church, if allegations of sexual misconduct arise, to respond to those involved with compassion and justice. To that end this policy has been adopted.

It is the policy of First Presbyterian Church of Royal Oak ("Church") that all church members, church officers, pastors, teaching elders, ruling elders, deacons, employees and volunteers working in, with and for this Church, are to maintain the integrity of the ministerial, employment, and professional relationship at all times and that they shall at all times follow the policies stated here. Sexual misconduct is a violation of the employment and professional relationship and is never permissible or acceptable.

### **Persons Covered**

- A. Persons covered by this Policy are all persons employed by or seeking employment with the Church, all volunteers of the Church (while acting on its behalf), Pastors, Teaching Elders, Ruling Elders, Deacons and other representatives of the Church. Members are also subject to this policy as stated below and in the Book of Order. Non-members participating in Church-related activities are also subject to this policy.
- B. This policy also covers those who are accused of sexual misconduct under the following two circumstances:
  - 1. Where access to the Accuser/alleged Victim by the Accused is related to the Accused performing some form of service to or appointment by a committee, group, council, or board of the Church.
  - 2. When the behavior of the Accused, though not conducted in a Church-related setting, raises questions for the Church regarding the character and effectiveness of the Accused.

### **Principles and Standards of Conduct**

- 1. 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. Even if someone such as a parishioner, client, employee or student initiates or invites sexual content in the relationship, it is always the responsibility of the pastor, teaching or ruling elder, officer, employer, volunteer, counselor, supervisor, teacher or adviser to prohibit a sexual relationship.
- 2. Sexual misconduct is a violation of the role of pastor, teaching and ruling elder, deacon, officer, employer, volunteer, counselor, supervisor, teacher, or adviser of any kind who is called upon to exercise integrity, sensitivity, and caring in a trust relationship. Sexual misconduct is also a violation of the covenant to act in the best interests of persons such as parishioners, clients, co-workers, employees, and students.

3. Sexual misconduct takes advantage of the vulnerability of children and persons who may lack the power to protect themselves from such misconduct. Sexual misconduct is antithetical to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world. Sexual misconduct violates the mandate to protect the vulnerable from harm.

For the above reasons, sexual misconduct is prohibited by this Church and will never be condoned or tolerated. This prohibition applies to all church members, church officers, pastors, teaching elders, ruling elders, deacons, employees, and volunteers working in, with and for this Church, and others participating in Church-related activities. Individuals who violate this policy may be subject to any consequences stated in his/her employment agreement, the Church's employment policies manuals, the Book of Order, or to any other consequence prescribed or provided by law.

### **Sexual Misconduct Response Person**

#### **1. Purpose and Function**

A sexual misconduct response person is appointed by this Church as the person to whom reports of allegations of sexual misconduct will be made, and whose function it is to receive and quickly and objectively respond to reports of sexual misconduct by persons covered by this policy. The response person's first priority will be to seek to provide support for the Accuser/Victim as he/she decides how to resolve the situation, as well as to exhibit appropriate and professional concern for the protection of the rights of the alleged Accused.

It is not intended that the response person will offer medical, psychological or legal advice as to either secular or church law, and the sexual misconduct response person is in no way to serve as, or as a substitute for, legal counsel for any person. The sexual misconduct response person will neither initiate disciplinary proceedings nor be available to testify in disciplinary proceedings arising from an accusation of sexual misconduct.

#### **2. Sexual Misconduct Response Person**

This Church's primary sexual misconduct response person is the Senior Pastor.

If the primary sexual misconduct response person is not reasonably available at the time that an allegation of sexual misconduct arises, or if an allegation is raised against or involves the sexual misconduct response person him or herself, then the following persons, in order, are approved by this Church as persons authorized to receive such allegations and serve as the sexual misconduct response person:

1. The Associate Pastor.
2. The Clerk of Session.

The sexual misconduct response persons shall be fully familiar with this policy and receive training in responding to allegations of sexual misconduct under this policy. Such training will include becoming familiar with the legal, administrative, secular and ecclesiastical policies and procedures for dealing with allegations of sexual misconduct.

The sexual misconduct response person may obtain such additional assistance from church officers or others, as she/he deems necessary. Such assistance may include, but is not limited to, the formation of a pastoral response team.

### **Needs of Those Involved**

#### **1. Victims and Families**

The sexual misconduct response person shall endeavor to assure that adequate treatment and care are available to the Victims of alleged sexual misconduct, and their families. If the Victim or family at first refuses help, the sexual misconduct response person should remain available to continue to offer help. Above all, this Church shall not act in a self-protective manner by ignoring the Victims and their families.

The extent of the damage to the Victims of sexual misconduct will vary from person to person. The sexual misconduct response person is to assume in all cases that the Victim is experiencing pain, whether or not the allegations and accusations are deemed to be truthful, and must endeavor to make appropriate pastoral care available.

The following may be some of the needs of the Accuser/Victims:

- a) To be heard and taken seriously.
- b) To receive protection and care if the Victim, for whatever reason, is unable to care for him/herself. To be assured that justice within the Church judicial process will be pursued.
- c) To be informed about church judicial process and progress with regard to the accusation.
- d) To receive pastoral care.
- e) To receive healing and reconciliation.
- f) To be informed of the right to consult legal counsel.

#### **2. Congregation**

- a) The sexual misconduct response person should be aware of the problems the congregation may experience as a result of allegations of sexual misconduct being raised against a pastor, teaching elder, ruling elder, deacon, employee, member or volunteer. The allegations may polarize the congregation, damage morale, and create serious internal problems. Efforts should be taken to recognize and identify the problems and heal the damage done to the congregation.
- b) Where a case of sexual misconduct becomes a matter of public knowledge, the sexual misconduct response person, with the permission of the alleged Victim, will inform the appropriate members of the Church session and staff regarding the status of the case.

### 3. The Accused

The sexual misconduct response person shall be mindful that any Accused is to be presumed innocent until an investigation shows otherwise. Appropriate consideration should be shown to the Accused as well as to alleged Victims and their families.

If the Accused is a pastor or teaching elder, the sexual misconduct response person should assume the responsibility of informing the Presbytery's Response Team about the allegation.

Confidentiality for the Victim demands that the Accused may only be approached by the sexual misconduct response person if the sexual misconduct response person is given permission to do so by the alleged Victim.

There may be circumstances, such as when there is suspicion of Child or elder abuse, when both ecclesiastical and secular law requires that the suspected abuse be reported to secular authorities.

If the accusation proceeds to the initiation of an ecclesiastical disciplinary case, the provisions of the Rules of Discipline of the Book of Order shall be followed.

### 4. The Non-Victim Accuser

A person other than the Victim, such as a parent, guardian or other advocate for a person who has been the alleged Victim of sexual misconduct, may be an Accuser. In the case of a Child, his or her minority status requires involvement of an adult to act on behalf of the Child. The sexual misconduct response person shall be aware that a non-Victim Accuser may also have some of the same needs as a Victim.

## **Response Procedures**

### A. Response to Reports of Sexual Misconduct

Any person with a complaint or report of sexual misconduct or a question involving this policy may contact the sexual misconduct response person at the address of this Church.

Reports of sexual misconduct will never be taken lightly or disregarded. Because information or rumors relating to such reports may affect the integrity and reputation of the Accuser, the Accused, the Victim, and the Church, reports of sexual misconduct should remain highly confidential both before and after they have been submitted to the appropriate authorities.

#### 1. Notifying those with a Need to Know

If an allegation is received by the sexual misconduct response person, that person will at a minimum ensure that the following Church-related persons are aware of the allegation having been raised: the Senior Pastor, the chair of the Personnel Committee (if an employee is involved), the Clerk of Session, the Church's insurance carrier, and the Church's legal counsel, if any.

#### 2. Subsequent Response

Once the sexual misconduct response person is made aware of a sexual misconduct complaint, a review will begin promptly. The sexual misconduct response person will contact the alleged Victim/Accuser and offer support on behalf of the Church. Because the role of the sexual misconduct response person is to support, educate, and listen

compassionately, such person will treat all information as confidential except information that must be reported under ecclesiastical and secular law.

The sexual misconduct response person's task is to provide a safe place for the alleged Victim/Accuser to describe what has happened and to explore options available to him/her within the Church for dealing with what has happened. The decision for future action rests with the alleged Victim/Accuser. The goal of the sexual misconduct response person familiar with the Church's Policy and Procedures on Sexual Misconduct will be to provide accurate information, so that the alleged Victim/Accuser can make an educated decision.

The alleged Victim/Accuser may or may not choose to pursue further help from the sexual misconduct response person. Based upon information received from the alleged Victim/Accuser the sexual misconduct response person may recommend that the alleged Victim/Accuser seek consultation with a professional (e.g., medical, legal). If such a recommendation is made, appropriate referrals could be provided if available.

If the Accuser is not the Victim, the sexual misconduct response person will encourage the Accuser to tell the alleged Victim about the services available through the Church. The Accuser will also inform the alleged Victim of the Accuser's intent to bring accusations to the attention of the sexual misconduct response person, and the Accuser will inform the sexual misconduct response person as to whether the Victim objects to the making of such accusations.

In some cases, the alleged Victim/Accuser may ask the sexual misconduct response person to contact the Accused. Before doing so, the sexual misconduct response person should have received a signed and dated authorization for release of information.

Should the Accuser decide to file charges under the Rules of Discipline, and if the alleged Accused is a teaching elder, the alleged Accuser/Victim will be informed by the sexual misconduct response person how to contact the Stated Clerk of the Presbytery to initiate such a process. The sexual misconduct response person's continued involvement at this point will be determined by the needs of the Accuser for continued support.

### 3. Written Records

If the Victim/Accuser chooses to proceed and requests the sexual misconduct response person's continuing involvement, an adult Victim or non-Victim Accuser may be encouraged to write a detailed description of the alleged sexual misconduct. Because of possible future proceedings, the Victim may want to sign and date the description and attach any supporting documentation. The Victim may wish to be in counseling during this process, in order to receive additional emotional support.

Any records kept by the sexual misconduct response person will be confidential. Such records should be kept in a secure place and should be retained for a period of not less than three (3) years from the time of their creation. Records may be destroyed after that time, but only after consultation with legal counsel. These records may include names, dates of contact, recommendations, and personal notes.

#### 4. Reporting Child Sexual Abuse

Allegations of child or youth sexual abuse will be handled as stated in the Church's separate Child and Youth Safety Policy.

#### 5. Voluntary Leave for Clergy

For the protection of those involved, the sexual misconduct response person may suggest a voluntary leave for a teaching elder, ruling elder, employee, volunteer and others who may be the subject of an accusation. If the matter involves a teaching elder the terms of the leave will be worked out between the Presbytery and the session of the church, with particular attention being paid to the provisions of the Rules of Discipline of the Presbyterian Church (USA) regarding administrative leave in such circumstances.

#### 6. Compliance with Secular Authorities

The Church shall cooperate with Secular Authorities in their investigations of criminal misconduct. Church proceedings shall not interfere with a criminal investigation by civil authorities. The Church proceedings may have to be suspended until secular investigations are completed.

### **Risk Management**

#### 1. Implementation

The Church will take appropriate steps to inform its members, employees, staff and volunteers of the standards of conduct and the procedures for effective response to be carried out if a report of sexual misconduct is received.

Clergy associated with the church must be aware of how state law regarding clergy confidentiality intersects with state law on child sexual abuse and reporting obligations.

#### 2. Liability and Insurance

The church may potentially be liable for damages for harm caused by sexual misconduct of a minister, employee, staff member, volunteer or other persons acting on its behalf.

The church should be certain that it obtains liability insurance covering sexual abuse and that it complies with the liability insurer's reporting requirements.

#### 3. Volunteers

Volunteers acting on behalf of the Church are subject to this policy. An appropriate screening procedure shall be established by the Church before permitting the volunteer to work with children, including requiring criminal background checks before such persons are assigned to work with children.

#### 4. Resources

The sexual misconduct response person will become generally familiar with resources, counselors, advisors, medical and legal persons, and other resources available in the greater area of the Church to serve and support victims of alleged sexual misconduct, so as to be able to provide references to such resources if and as needed.



5. Registered Sex Offenders

Registered sex offenders cannot volunteer at the Church with children or youth, and cannot participate in any other capacity at the Church unless accompanied at all times while engaged in a church sponsored activity by a designated partner approved by the senior pastor.

**Employment Practices**

1. Record Keeping

The church shall maintain records related to this policy evidencing any training received by any employee, volunteer, or teaching elder; or pertaining to any incident covered by this policy. Such records shall be under the control of the sexual misconduct response person, who may designate those other persons who shall have access to the records.

2. Pre-screening Applicants

Pre-employment screening shall include specific questions related to discovering previous formal charges of sexual misconduct.

An applicant for employment shall be informed of any reports of sexual misconduct and shall be given an opportunity to submit additional references or to give other evidence to correct or to respond to harmful information obtained from a reference prior to a final decision being made on the applicant.

**Appendix I — Definitions**

Accused is the person against whom a claim of sexual misconduct is made.

Accuser is the person claiming knowledge of sexual misconduct by a person covered by this policy. The Accuser may or may not be the Victim of alleged sexual misconduct. A person such as a family member, friend, or colleague of the Victim may be the Accuser whose information initiates an inquiry.

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

Investigation is the term generally used by police, secular prosecutors, and Child protective services when responding to allegations of an offense.

Response is the action taken by the Church 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 and professional intervention for Victims, their families, and others involved in congregational and employment settings, (4) pastoral care and professional intervention for congregational and employment settings, and (5) pastoral care for the Accused.

Rules of Discipline are the Rules of Discipline promulgated and amended from time to time by the Presbyterian Church (U.S.A.) and set forth in the Book of Order, D-1.0000 *et seq.*

Secular 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 as sexual crimes or offenses.

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

Sexual Harassment in this Policy Means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 1) submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's employment or volunteer service, 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual, or 3) 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.

Sexual Misconduct includes:

1. Child Sexual Abuse, which is sexual conduct between a child or youth and an adult, or between a child or youth and another child or youth at least four years older than the victim and at least twelve (12) years of age.
2. Sexual Harassment, as defined in the Appendix.
3. Rape or sexual contact by force, threat, intimidation, or misuse of power in a trust relationship.
4. Sexual conduct (including, but not limited to, sexual advances, requests for sexual favors, and other kinds of verbal or physical conduct of a sexual nature, such as obscene or suggestive language or behavior, use of church property, computers and other equipment for sexual or pornographic purposes, unacceptable visual contact, touching or fondling) that is unwelcome and/or repeated when the person engaged in the conduct knows or has been informed that the conduct is unwelcome or offensive to the recipient. In the case of children, youth, or developmentally disabled persons, all sexual conduct is considered to be non-consensual and unwelcome for the purposes of this policy.
5. Sexual conduct within a pastoral (e.g. clergy with a member of the congregation) or professional relationship (e.g. counselor with a client), lay employee with a Church member, officer or representative with a Church member (or other person who may be a lay person, a teaching or ruling elder, or deacon), including sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature. This definition does not apply to relationships between spouses.
6. Any conduct which would come within the meaning of "sexual abuse" as used in the Rules of Discipline of the Book of Order of the Presbyterian Church (U.S.A.)

Victim is the term used to identify the person alleged to have been injured by sexual misconduct

Volunteer is the term used for those who provide services for the Church and receive no benefits or remuneration. 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. Liabilities of the governing body or entity are the same for volunteers as for employees.