

PRESBYTERY OF WYOMING
Sexual Misconduct Policy (Other Than Minors/Vulnerable Adults)

State and federal law prohibit harassment of or discrimination against employees or applicants for employment on the basis of sex, race, national origin, age, religion and certain other bases. Moreover, the Presbytery of Wyoming prohibits misconduct, harassment or discrimination due to sexual orientation, age, gender identity status, marital status, and any other basis protected by law.

This document sets forth the policy of Presbytery of Wyoming (hereinafter the "Presbytery") that all persons who interact with the Presbytery, whether as congregants, volunteers, employees or applicants for employment or other capacities have the right to be present in an environment free of sexual misconduct, harassment and discrimination.

PERSONS SUBJECT TO THIS POLICY

This Policy applies to and governs the conduct of all members of the Presbytery (ordained ministers/teaching elders), all persons on other rolls of Presbytery (commissioned lay pastors/commissioned ruling elders, commissioned church workers, certified Christian educators, inquirers and candidates), all employees of the Presbytery (whether ordained to church office or not), all persons who serve or function on behalf of the Presbytery as volunteers and all non-member employees and contractors/vendors of the Presbytery. The persons that are subject to this policy are directed to refrain from sexual misconduct, sexual harassment of or sexual discrimination.

PERSONS PROTECTED BY THIS POLICY

The Policy is adopted to protect all competent adults who participate in Presbytery functions or come into contact with a Presbytery Council or other person who is otherwise subject to compliance with this Policy (as described above).

The Presbytery has a separate policy to protect minors and vulnerable adults from abuse, neglect and sexual misconduct, due to their special characteristics. The existence of a separate policy for those persons is not meant to imply that competent adults are to have lesser protections afforded to them, but is simply a statement that Presbytery feels it necessary to make specific mention of those special populations.

PURPOSE

The purpose of this Policy is:

- to make explicit the Presbytery's opposition to any abusive behavior, sexual or otherwise, and oppressive, degrading environments in all Church relationships, including without limitation, employment, mission, worship, teaching, fellowship, recreation, etc.;
- to safeguard, insofar as possible, persons who participate in Presbytery programs from abuse through any form of sexual or other abusive or harmful misconduct, and safeguard participants from false accusations;

- to provide appropriate and timely remedies and discipline in cases where violation of this Policy has been alleged or found to be factual;
- to seek justice by assuring effectiveness of the Presbytery’s administrative, investigative and judicial process in determining truth, protecting the innocent, and dealing appropriately with those who abuse, exploit or harm others;
- to provide pastoral care and to promote healing of all persons and congregations who may be affected by sexual misconduct or an allegation thereof; and
- to establish and maintain healthy boundaries in all of our relationships.

BOOK OF ORDER

In addition to general policy considerations, The Book of Order for the Presbyterian Church (U.S.A.) drives a need for this Policy. All councils of the PC(USA) within the Presbytery of Wyoming, including each session of a congregation, are also required by the *Book of Order*, G-3.0106, to adopt and implement a sexual misconduct policy. While the Presbytery of Wyoming urges its member congregations to adopt similar policies and procedures pertaining to sexual misconduct, Presbytery chooses to let its member congregations adopt church-specific policies and procedures.

DEFINITIONS

Safety Response Coordinator: The Safety Response Coordinator is a person who is a member of or appointed by the sponsoring council or entity of the Presbytery and is specifically trained to respond to allegations and reports of minor or vulnerable adult abuse and/or sexual misconduct at Presbytery activities. The **DUTIES AND RESPONSIBILITIES OF THE SAFETY RESPONSE COORDINATOR** are set forth in Appendix I. A Safety Response Coordinator must be readily available to be contacted for each Presbytery event and other sponsoring council or entity event.

Sexual Abuse: In the *Book of Order*, sexual abuse is defined, and shall be defined in this Policy, as follows: “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.). Additionally, sexual gratification by an adult through the use of pornographic images of minors or vulnerable adults is, for the purpose of this Policy, considered sexual abuse;

Sexual abuse with regard to minors and vulnerable adults is governed by the Presbytery of Wyoming Minor/Vulnerable Adult Protection Policy and Procedures. Sexual abuse with respect to competent adults is governed by this Policy.

Sexual Misconduct includes both sexual harassment and sexual discrimination, but is not limited to:

1. Sexual conduct in relationship to any person when the conduct includes force, threat, coercion, intimidation or misuse of ordered ministry or position, including:

- a. Misuse of trust, authority or power in a relationship to gain advantage over another in a sexually abusive, exploitive, non-consensual or unjust manner.
 - b. Sexual malfeasance, defined as sexual conduct within a ministerial relationship (e.g., pastor with a member of or visitor to a congregation or an adult participating in the activities of the congregation) or professional relationship (e.g., pastor with an employee of the pastor's congregation, counselor with a client, presbytery staff with a committee member). This is not meant to restrict church professionals from having consensual mutual, social or marital relationships with each other, with spouses who are also church members or with members of other Presbyterian churches when not in a professional relationship.
 - c. Sexual conduct, including sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature by a person in authority in which submission to such conduct is made (either implicitly or explicitly) a term or condition of employment or church-relationship status.
 - d. Sexual advances, requests for sexual favors, or other verbal or physically conduct that demeans, ridicules and/or insults a person because of the person's sex, sexual orientation or gender identity (actual or perceived), or creates an intimidating, hostile or offensive working or church- relationship environment; or any sexual behavior that continues after it has been made clear that the behavior is inappropriate or unwelcome;
2. Any unwanted sexual contact or interaction, physical or verbal, between two persons, whether or not the conduct involves touching. All such unwanted sexual behavior is always considered forced.
 3. Sexual abuse as defined above;
 4. Sexual harassment and/or discrimination, examples of which are set forth below.
 5. Misuse of technology: The use of technology that results in: (i) the harassment or abuse of a person, or (ii) sexual abuse or sexual misconduct towards a person protected by this Policy. This includes using technology to send pornographic or suggestive messages and images to a person.

Note: Sexual misconduct may occur between any two persons, regardless of the sex of those persons.

By way of example, all persons are advised that harassment or discrimination in any form including verbal, physical, and visual conduct, threats, demands and retaliation is prohibited. This includes, but is not limited to, the following examples:

- verbal conduct such as abusive or insulting phrases, derogatory comments, slurs, sexual advances, invitations, innuendo, epithets, noises or comments;
- visual or written conduct such as derogatory, obscene, offensive or suggestive letters, clothing, posters, photographs, cartoons, drawings, epithets, objects or gestures;

- physical conduct such as assault, unwanted touching, blocking normal movement, or interfering with the work of an employee;
- requests, offers, threats or demands to submit to sexual requests in order to keep a job or avoid some other loss, and offers of job benefits in return for sexual favors; or
- retaliation for having reported or threatened to report discrimination or harassment.

PROCEDURES

Enforcement

The person chiefly responsible for enforcement of this Policy shall be the Safety Response Coordinator. The Safety Response Coordinator shall be a person who is a member of or appointed by the sponsoring council or entity of the Presbytery of Wyoming and is specifically trained to respond to allegations and reports of sexual misconduct. The **DUTIES AND RESPONSIBILITIES OF THE SAFETY RESPONSE COORDINATOR** are set forth in Appendix I.

The Safety Response Coordinator who is appointed by Presbytery of Wyoming may be, but shall not be required to be, the same person appointed by Presbytery of Wyoming with regard to minors and vulnerable adults.

Reporting

Reporting sexual misconduct is critical. All persons who experience or who witness sexual misconduct by a person who is subject to comply with this Policy must: (i) unless their safety or well-being would be compromised, the victim or witness must make it clear to the perpetrator that such behavior is offensive and immediately request that such behavior be stopped, and (ii) report such conduct to the Safety Response Coordinator for investigation and resolution. The alleged victim or witness of the sexual misconduct must report; Presbytery cannot help if it is not made aware of the problem.

Each sponsoring Presbytery of Wyoming entity will publicize a procedure for reporting any prohibited actions and have forms to document reports available at all times in a public place at the event (**REPORT OF SEXUAL MISCONDUCT** form is attached). Anyone suspecting or having knowledge of sexual misconduct shall immediately report such violation to the Safety Response Coordinator.

In addition, all reports alleging sexual misconduct shall be immediately reported to either the Stated Clerk or the moderator of the Committee on Ministry or both.

Investigation

Minor Allegations

The Presbytery recognizes that there may be limited, unusual circumstances in which a formal investigation of the sexual misconduct may actually discourage the victims and witnesses from reporting (due to the possible hardship, inconvenience and unwanted

focus that may arise from a formal investigation). These situations will be relatively rare, but Presbytery wants to make sure that the possibility of a formal investigation does not dissuade or deter victims and witnesses from reporting acts and omissions that constitute sexual misconduct, but which, all circumstances considered, indicate that informal resolution may be appropriate.

Thus, in order to assure that even the most minor forms of sexual misconduct are remedied, and in order to help prevent more serious misconduct in the future, this Policy recognizes that in those situations where informal and immediate handling of acts or omissions that involve relatively minor sexual misconduct when the victim is a competent adult, the Safety Response Coordination shall have the discretion to contact the perpetrator directly to address the complaint, without the initiation of the formal investigation processes described below.

However, the informal resolution process shall be carried out only if the reporting party and the victim (if different from the reporting party) agree with a recommendation by the Safety Response Coordinator to attempt to resolve the complaint by an informal process. However, even the most minor of violations must be documented so that a record of the informal resolution of the matter exists. Moreover, if the Safety Response Coordinator and/or the victim/reporting witness do not feel that an attempt at informal resolution has resulted in the perpetrator's recognition of the violation and an assurance that such behavior will not be repeated, then the Safety Response Coordinator shall carry out the processes described below.

Formal Investigation Process

In all situations other than where informal resolution might be applicable, the Safety Response Coordinator shall handle allegations of abuse or sexual misconduct as described in Appendix I

In order that confidentiality will be maintained and the procedures of the Presbytery will not be compromised, anyone having a reasonable belief that a violation of this policy has occurred shall refrain from divulging information that was the basis for a report to any other person not authorized by this policy or law to receive and investigate the report.

A report consisting of the names of the accused and accuser, together with a brief description of the alleged abuse or sexual misconduct and any available supporting information shall be transmitted to the Stated Clerk in order to initiate the procedures described in this policy, in accordance with the Rules of Discipline, chapter D-10.000 of the Book of Order if applicable, or in accordance with pertinent personnel policies for situations involving lay employees. Once the Stated Clerk receives the written report, disciplinary procedures must be initiated whether or not the Stated Clerk is personally persuaded of the truth of the allegations or has access to all the supporting evidence.

The Stated Clerk shall inform the Moderator of the Presbytery of Wyoming, the Committee on Ministry Moderator and the General Presbyter when disciplinary procedures pursuant to the Book of Order have been initiated. (By rule, the Presbytery Moderator in consultation with the Stated Clerk shall appoint an investigating committee under the provisions of the Rules of Discipline D-10.000.) In addition, the Stated Clerk or other knowledgeable person shall notify insurance carriers and Presbytery's legal counsel.

Notification, as required or appropriate, shall also be made to governmental authorities and employing or governing bodies.

Any person who in good faith: (1) makes an allegation of abuse, neglect or sexual misconduct or (2) assists in investigating the allegation will not be adversely affected in terms and conditions of employment, church membership or affiliation, or otherwise discriminated against or disciplined/dismissed as a result of the allegation.

MISUSE OF THIS POLICY

This policy is meant to protect persons from Sexual Abuse, Sexual Misconduct, Sexual Harassment, Sexual Discrimination and misuse of technology. In order to adequately protect persons from these types of misconduct, it is critical that this policy not be misused or abused, as misuse of the policy will defeat the very purposes, goals and objectives of the policy.

Accordingly, this policy should not be used or construed so as to prevent or punish bona fide liturgical, educational and/or sermon-based discussion of how the Bible, the Presbytery of Wyoming and its constituent churches, and/or the Presbyterian faith (or other faiths or religion) deal with issues relating to gender, marriage, sexuality, sexuality preference, gender identity and other such similar topics. Bad faith allegations or use of this policy for purposes unrelated to its intents are expressly prohibited, and could result in disciplinary measures.

RESPONSE COORDINATION TEAM

The Committee on Ministry moderator, General Presbyter and Presbytery moderator shall constitute the Response Coordination Team. In the event that one member of this team declares a conflict of interest and recuses themselves, a substitute member shall be selected by the two remaining members. It shall be the responsibility of this team to identify and coordinate appropriate ways to meet the needs that arise in the context of an abuse, neglect or sexual misconduct case. In addition, the team shall make sure that all required or appropriate reporting is accomplished.

The Response Coordination Team shall not engage in any investigative activity. The role of the Response Coordination Team is described in Appendix II.

The Committee on Ministry, by nature of its constitutional responsibility to serve as pastor and counselor to the ministers of the presbytery and to facilitate the relationships between congregations, ministers and the presbytery (G-3.0307), shall ordinarily assume a significant role in addressing those needs. However, the response coordination team may also identify additional sources of assistance and shall provide support and guidance to the Committee on Ministry as requested or required.

DISCIPLINARY PROCEDURES

In all cases of reported sexual misconduct by persons under the jurisdiction of the Presbytery of Wyoming, the judicial process in accordance with the Rules of Discipline, chapter D-10.000 of the Book of Order will be implemented. In cases involving employees,

the provisions of the personnel policy of the Presbytery will be followed. For employees who are also continuing members of Presbytery, the disciplinary process of the Book of Order will apply, and not the personnel policies of the Presbytery of Wyoming.

ROLE OF PRESBYTERY OF WYOMING STAFF

The role of Presbytery of Wyoming staff is to provide a channel for communication and to describe existing process. The role of the Stated Clerk is limited to receiving reports of allegations and serving as the interpreter/manager of judicial process. The role of the General Presbyter is to serve on the response coordinating team, to provide counsel and management at the direction of the Committee on Ministry, and within the limitations of judicial process, to provide pastoral care to the accused.

APPENDIX I

DUTIES AND RESPONSIBILITIES OF THE SAFETY RESPONSE COORDINATOR

The Safety Response Coordinator will read and be familiar with the terms of this Policy as well as established procedures under the Rules of Discipline, *Book of Order of the Presbyterian Church (U.S.A.)* for responding to complaint(s) of allegations of minor/vulnerable adult abuse or sexual misconduct made against any minister, teaching elder, ruling elder, employee, volunteer, or other person subject to this Policy with the sponsoring council or entity.

The Safety Response Coordinator has the following responsibilities in response to allegations of sexual misconduct:

1. Immediately provide for the safety of the alleged victim(s) involved.
2. If the report alleges abuse, neglect or harassment of a minor or vulnerable adult, the Safety Response Coordinator will:
 - a. immediately ensure that the allegation is reported to the civil authorities when required under Wyoming law;
 - b. immediately notify the parents or guardian of the minor or vulnerable adult;
 - c. notify the insurance company of the allegation and that no investigation has yet occurred.
3. Make immediate decisions concerning the temporary removal of the individual accused from: (a) any contact with the alleged victim(s) pending an investigation, and/or (b) removal of the accused from the event until a resolution of the allegations has occurred.
4. Immediately notify designated persons at the Presbytery of Wyoming sponsor of the event of the report of alleged sexual misconduct. Any media requests will be handled by a designated person or office of the Presbytery of Wyoming, taking care to safeguard the privacy and confidentiality of all involved.
5. Consult the Presbytery of Wyoming offices about resources available for victims of the alleged sexual misconduct prior to each event and have those resources readily available at every event.
6. Carry out the requirements set forth in this Policy for reporting the allegation of sexual misconduct, under REPORTING, above.

Formal Investigation

The Safety Response Coordinator shall investigate allegations as follows:

1. If the report is against a member of Presbytery (ordained ministers/ teaching elders), or other persons on another roll of Presbytery (commissioned lay

pastors/ruling elders, commissioned church workers, certified Christian educators inquirers and candidates), the Safety Response Coordinator shall send a written statement of allegation to the Stated Clerk of the Presbytery that holds the accused's membership. This written statement of allegation shall initiate the formation of an investigating committee under the Rules of Discipline of the Book of Order.

2. If the report is against a ruling elder, the Safety Response Coordinator will notify the session of membership that an allegation of an offense has been received against an elder that triggers the formation of an investigating committee under the Rules of Discipline of the Book of Order.

3. If the report is against an employee or volunteer of the Presbytery of Wyoming, the Safety Response Coordinator will notify the person(s) or committee responsible for supervision of the employee, the General Presbyter and the Stated Clerk. The Safety Response Coordinator will request a follow-up report from the supervisory body of the outcome of any subsequent investigation or discipline.

4. If the report is against any member, representative or volunteer of a sponsoring council or entity other than the Presbytery of Wyoming, the Safety Response Coordinator will notify the person(s), entity or organization responsible for supervision of the person. The Safety Response Coordinator will request a follow-up report from the supervisory body of the outcome of any subsequent investigation or discipline.

5. Should the person accused of alleged abuse or sexual misconduct not be under the jurisdiction of the Presbytery of Wyoming, the accuser shall be directed to the governing body having jurisdiction over the accused person.

APPENDIX II

ROLE OF RESPONSE COORDINATION TEAM

In the pastoral care provided by the Response Coordination Team formed by the Committee on Ministry, there shall be no effort to determine the guilt or innocence of any parties, and the Committee shall work independently of any investigating committee. The work of the committee shall be to supervise and manage ministries of care, oversight, interpretation and reconciliation. It shall seek to provide care and support as may be needed for any Presbytery body and/or individual which might be or has been affected by the alleged misconduct throughout the time of the investigating committee work and until final resolution through the judicial process is achieved. In working on such matters, information shall only be provided on a need-to know basis. The work of the committee shall seek to address issues of anger and denial, loss of trust, and other issues that typically accompany abuse allegations and to restore the bodies and persons involved, insofar as possible, to wholeness and effective functioning. This restorative process may include such things as:

- Recommending specialized interim or temporary pastor services.
- Interpreting the Presbytery's policy and procedure and judicial process as provided by the Rules of Discipline of the Book of Order.
- Providing for conflict resolution, counseling or other specialized services and resources.

In responding to the accuser and/or alleged victim(s) and the accused, the Committee on Ministry or a special committee it may establish or other entities/persons identified by the response coordinating team may take the following actions:

- Advise them of the processes and policies of the Presbytery of Wyoming (this Policy and applicable personnel policies) and the PC(USA) judicial process.
- Advise them of where to seek therapeutic, legal services, counseling and/or pastoral support.

Within its absolute discretion, the Committee on Ministry, or a special committee it may establish, may also take the following actions:

- Provide for appropriate pastoral care (counseling, advocacy, etc.) for the accuser and/or the alleged victim and other related persons affected by the allegation of abuse or sexual misconduct, with the alleged victim's consent.
- Provide for appropriate pastoral care (counseling, advocacy, etc.) for the accused and other related persons affected by the allegation of abuse or sexual misconduct.

In all cases where a report of abuse, neglect or sexual misconduct has been received and a disciplinary case initiated against a member of the Presbytery, the Committee on Ministry, in consultation with the parties to the alleged misconduct, and with the session in the case of the accused being in a pastoral position, may impose the following measures:

- Immediately restrict pastoral activities of the accused, if mandated administrative leave has not been imposed by the Permanent Judicial Commission (D-10.0106)
- Immediately impose supervision of the accused, prohibiting (and monitoring) certain activities such as stipulating no contact with the accuser and/or alleged victim.
- In cases where it is deemed imperative, the Presbytery may proceed to dissolve the pastoral relationship under the provisions of G-2.0904.

When the accused is an employee of the Presbytery of Wyoming, the personnel committee, in consultation with the General Presbyter and affected parties, may place the accused on temporary administrative leave. Pay and benefit status during such a period of administrative leave shall be as provided in document(s) governing the specific employment relationship.

All administrative leave resulting from the implementation of this policy shall be considered without prejudice and shall continue until the judicial process has been completed.

REPORT OF SEXUAL MISCONDUCT

Date of Report: _____ **Time:** _____

Complainant's contact information: _____

Victim's name, age, contact information: _____

Alleged Responsible Person's Name(s), Identifying information: _____

Date, Time, Event/Activity Name, Location of Alleged Abuse or Misconduct: _____

Name(s), Address(es), Phone(s) of Witnesses: _____

Describe observed or reported abuse or misconduct: _____

Parties Notified:

Safety Response Coordinator Name **When** **How**

Report Submitted to: _____ **Date:** _____

Signature of person completing this report _____

Printed name _____