

# **SAMPLE**

## **Sexual Misconduct Policy**

[\_\_\_\_\_ Presbyterian Church]  
[Adoption Date]

### ***I. Introduction***

#### **A. Policy Statement**

It is the policy of \_\_\_\_\_ (“Church”) that sexual misconduct is prohibited on Church property and regarding any of its activities, wherever they may occur. This policy is adopted pursuant to, and so as to be consistent with, the Book of Order and the 2016 Sexual Misconduct/Harassment Policy of the Presbytery of the James, Presbyterian Church (U.S.A.). This policy is in addition to such policies and procedures as the \_\_\_\_\_ [on-site child care center] may utilize to protect and care for children at the \_\_\_\_\_ [on-site child care center].

#### **B. Purpose**

The purpose of this policy on sexual misconduct is: (1) to promote the understanding of what sexual misconduct is and what the Church expects of those covered by this policy; (2) to attempt to prevent the occurrence of sexual misconduct and to assure a prompt and reasoned response should it be alleged; (3) to set and enforce standards of ethical behavior reflective of Scripture and consonant with secular law; and (4) to develop procedures for the enforcement of this policy, fully consistent with the appropriate Rules of Discipline of the Book of Order.

#### **C. Scope of Policy**

As further defined below under the term "Persons Covered," this policy only applies to those situations in which the Church has jurisdiction over at least one of the individuals involved in allegations of sexual misconduct. This policy applies not only to conduct on Church property, but also to conduct associated with the Church’s responsibilities and activities wherever they may occur. Any questions as to whether this policy on sexual misconduct applies and how to comply should be directed to the Clerk of the Session or his/her designee(s) listed below.

### ***II. Definitions***

#### **A. Child Sexual Abuse**

Child sexual abuse includes, but is not limited to, any unlawful contact or interaction between a child and an adult where the child is being used for the sexual stimulation of the adult or some third person. The prohibited behavior does not necessarily require touching. Sexual activity between a child and an adult shall always be considered as forced because the child is deemed not legally capable of consenting. The Church will follow Va. Code § 1-204, which defines a “child” as anyone under eighteen years of age.

**B. Employee**

Employee is the comprehensive term used to cover any individual hired or called to work for the Church who is paid a salary or wages for his/her services.

**C. Mandated Reporter**

Mandated reporter is a person required to report by civil law any and all suspected incidents of child abuse, including child sexual abuse. Virginia law exempts certain persons from its mandatory reporting requirements, including regular ministers of a church. In implementing the procedures of this policy, however, the Church shall ensure adherence to the requirements under the Code of Virginia and the Book of Order G-4.03, as amended and in existence at the time of the alleged incident. The pertinent rules of the Book of Order G-4.03 on mandatory reporting state as follows:

"Any member of this church engaged in ordered ministry and any certified Christian educator employed by this church or its congregations, shall report to ecclesiastical and civil legal authorities knowledge of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of a confidential communication as defined in G-4.0301, (2) she or he is not bound by an obligation of privileged communication under law, or (3) she or he reasonably believes that there is risk of future physical harm or abuse." (G-4.0302, 2015–17 edition.)

Further,

"In the exercise of pastoral care, teaching elders (also called ministers of the Word and Sacrament) and ruling elders who have been commissioned by a presbytery to limited pastoral service [(also called "Commissioned Ruling Elders")] (G-2.10), shall maintain a relationship of trust and confidentiality, and shall hold in confidence all information revealed to them in the course of providing care and all information relating to the exercise of such care.

When the person whose confidences are at issue gives express consent to reveal confidential information, then a teaching elder or a ruling elder commissioned to pastoral service may, but cannot be compelled to, reveal confidential information.

A teaching elder or a ruling elder commissioned to pastoral service may reveal confidential information when she or he reasonably believes that there is risk of imminent bodily harm to any person." (G-4.0301, 2015–17 edition.)

All others who are aware of or suspect an incident of child abuse must report that suspicion or knowledge to the appropriate civil authorities, which report may be made by the person(s) designated to carry this policy into effect. For specific reporting procedures for incidents involving the \_\_\_\_\_ [on-site child care center], please see the sections below.

**D. Persons Covered**

Persons covered by this policy include Church members, Church officers, teaching elders, non-members who

are employees under the supervision of the Church, volunteers involved in an activity sponsored by or affiliated with the Church and visitors to the Church for religious, business or other reasons. Those included shall include those accused of sexual misconduct under circumstances in which (1) access to the alleged victim is related to some form of service to or appointment by the Church, (2) the sexual misconduct alleged arises in a non-Church related setting, the circumstances of which raise questions of character and effectiveness of a person covered by this policy, or (3) the alleged improper conduct occurs in a setting in which access is granted to the alleged victims by the Church, whether with members or non-members.

#### **E. Response**

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, judicial, or both).
3. Pastoral care for alleged victims and their families and others.
4. Exoneration and pastoral care for those falsely accused.
5. Pastoral care and rehabilitation for the perpetrators and care for their families.
6. Administration leave (with or without pay) for the person accused while the response is under way.
7. Termination of employment, call or appointment.

If the alleged act is considered to be criminal in nature, the report shall be referred to the appropriate Secular Authorities.

#### **F. Response Team(s)**

Response Teams are to be constituted as detailed by the enforcing procedures, and shall be persons authorized by the session to facilitate the process of responding to allegations of sexual misconduct. Without further approval, the following persons are approved to be on a Response Team, unless there is an assertion of the person's involvement with the sexual misconduct at issue: the head pastor; assistant pastor; the chairperson and those members serving on the Personnel Ministry; any Elder; the Director of Christian Education; **[add others pertinent to your church]**.

#### **G. Secular Authorities**

Secular authorities are the governmental bodies, whether city, town, county, state, or federal, who are given the responsibility to investigate, criminally prosecute, and/or bring charges against individuals accused of sexual crimes or sexual misconduct offenses against other adults or children.

#### **H. Secular Law**

Secular law is the body of city, town, county, state, or federal laws, often referred to collectively as civil or criminal law. Prohibited behavior addressed by this policy is that which is governed by criminal or civil law regarding sexual misconduct.

#### **I. Sexual Harassment**

Sexual harassment as defined for this policy constitutes 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 condition of an individual's employment, the individual's pastoral relationship, or the individual's participation in Church-sponsored programs or activities, or their achieving or continuing a given status in an institution;
2. Submission to or rejection of such conduct by an individual is threatened or used as the basis for employment, pastoral, or Church-sponsored program participation decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work or volunteer performance; an individual's pastoral, or other Church-sponsored program experience; or creating an intimidating, hostile, or offensive working, pastoral, or other Church-sponsored program environment.

Sexual harassment can occur in the form of physical, verbal, and/or non-verbal harassment. Among the examples of behavior that may constitute sexual harassment are, without limitation: pressure for sexual activity; uninvited physical contact, including touching, pats, squeezes, repeated brushing against, the impeding or blocking of one's movement, or behavior intended to be playful; disparaging remarks about one's gender; lewd or sexually suggestive verbal comments; sexual suggestions disguised as humor; requests for sexual favors accompanied by implied or overt threats; dissemination or display of sexually offensive materials, including pictures, drawings, or cartoons; the use of pornographic materials; and unwelcome communications, notes, phone calls, text messages, instant messages, e-mail, and social media posts, messages, or other communicative activity.

**J. Sexual Malfeasance**

Sexual malfeasance as defined for this policy constitutes the broken trust resulting from genital contact (contact with the breasts, buttocks, or pubic area) within a ministerial (e.g., clergy with a member of their congregation) or professional relationship (e.g., lay employee with a church member).

**K. Sexual Misconduct**

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

1. Child sexual abuse as defined above;
2. Sexual harassment as defined above;
3. Rape or sexual contact by force, threat, or intimidation;
4. Sexual conduct (such as obscene, prurient or suggestive language or behavior, unwelcome visual contact, recording or touching) which is reasonably injurious to the physical or emotional health of another; and
5. Sexual malfeasance as defined above.

**L. Volunteer**

Volunteer is the term used for those who provide services for the Church and who 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.

### ***III. Guiding Principles***

The Church and its congregation are charged with the care, nurture, and spiritual well-being of those persons who come to us. This is a sacred trust and is based implicitly and explicitly on Scripture, the oaths of office for the Church officers and the traditions of the Church. Sexual misconduct is harmful and is a violation of the role of pastors, employees, volunteers, counselors, supervisors, teachers, and advisers called to exercise integrity, sensitivity, and caring in a trust relationship. Sexual misconduct may also violate Secular Law.

### ***IV. Guidelines for Reporting a Complaint***

The Church will follow the reporting procedures of the Rules of Discipline in the *Book of Order*. Reports of alleged sexual misconduct must comply with the following procedure as set forth in the Rules of Discipline in the *Book of Order*, as amended and existence at the time of the alleged incident:

"Procedure preliminary to a disciplinary case is initiated by submitting to the clerk of session or the stated clerk of the presbytery having jurisdiction over the member (D-3.0101) a written statement of an alleged offense, together with any supporting

information. The statement shall give a clear narrative and allege facts that, if proven true, would likely result in disciplinary action. Such allegations shall be referred to an investigating committee. (D-10.0201)." (D-10.0100, 2015–17 edition).

The Clerk of the Session designates the following persons to receive statements instead of the Clerk, unless the person is not available or the person is the subject of the incident. For incidents involving those cared for or employed at the \_\_\_\_\_ [on-site child care center] and/or such additional childcare program offered to the public for money, excluding vacation bible school, reporting shall be made to the Director of the \_\_\_\_\_ [on-site child care center]. For all other incidents, reporting shall be to the Chairperson of the Personnel Ministry.

All employees working at the \_\_\_\_\_ [on-site child care center] are Mandatory Reporters of child abuse, which by law includes child sexual abuse as defined by this policy. Suspected cases of child abuse must be reported to the Virginia Department of Social Services to: CHILD ABUSE HOTLINE, Dept. of Social Services, 1-800- 552-7096.

\_\_\_\_\_ [on-site child care center] staff members may directly report suspected incidents of child abuse by persons not covered by this policy to the Virginia Department of Social Services and will complete all necessary paperwork. The staff member should inform the Director and/or Assistant Director of the report and together decide whether or not to inform the parents of the report.

If a \_\_\_\_\_ [on-site child care center] staff member or other person covered by this Policy is accused of child sexual abuse of a child cared for at \_\_\_\_\_ [on-site child care center], such an accusation will be reported to the Director. As part of the Church's Response, a determination will be made as to whether there is reasonable cause to suspect that a child has been subjected to abuse. If there is reasonable cause, a report must be made to the Department of Social Services.

## ***V. Guidelines for Investigating a Complaint***

The Church will follow the investigation procedures provided in the Rules of Discipline of the *Book of Order*. A Response Team of at least two persons will be constituted to facilitate the Church's Response. The designated person to whom the report is made will promptly select the Response Team members. The members must consent to so serve and may include the designated person.

## ***VI. Guidelines for Appeal***

The Church will follow the appeal procedures provided in the Rules of Discipline of the *Book of Order*.

## ***VII. Implementation***

The Church will take all complaints seriously, investigate them and undertake such disciplinary and other actions as may be specified or appropriate, including termination of employment. The 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 Committee on Ministry and the Investigating Committee (see G-3.0303 and D-10.0201, 2015-17 edition). When sexual misconduct occurs, especially child sexual abuse, the secular authorities shall be notified as provided above. The Church will also make inquiry and enforce

those disciplinary procedures warranted when it can be done without interfering with the secular authority.

The Church shall take appropriate steps to inform members, employees, volunteers, and students of this policy and the standards of conduct set forth herein. All persons involved in any alleged incident are reminded of their duty to cooperate with the Secular Authorities in the investigation and prosecution of any charges, except as exempted above or as may be permitted by law.

Response to complaints of sexual misconduct in the course of employment will be governed by this policy. The same allegations may also result in charges filed against a church member or minister under the Rules of Discipline, and may lead to temporary or permanent removal from membership or office.

## ***VIII. Compliance***

### **A. Employment Practices**

Accurate record keeping is an essential part of hiring and supervision practices. The Church shall maintain a personnel file on every employee, including ministers. Among other documents, the file shall contain an acknowledgment document that this policy has been read before employment is begun.

For those persons employed or appointed to care for children, including for the \_\_\_\_\_ [on-site child care center] and youth volunteers who serve on a regular basis, part of the pre-employment screening shall include specific inquiry related to discovering previous complaints or charges of sexual misconduct and a criminal background check. \_\_\_\_\_ [on-site child care center] employees shall have also received child abuse training.

### **B. Distribution**

Copies of this policy shall be available on the Church's website and made available to all Church members, those on a Response Team and to persons who accuse others of misconduct, including those who are or claim to be victims of sexual misconduct and their families. The policy shall be distributed to all employees and to those volunteers who participate in the care of or supervise activities of minors on a regular basis.

All incoming ministers, elders, officers, educators, and commissioned ruling elders to the Church shall, as part of their orientation or training, sign a document (see example below) stating that they have read and understood the policy. This statement shall be signed and kept in the individual's personnel file, if one exists, or if not, collectively with other acknowledgements.

Similarly, all employees shall, as part of their orientation, sign a document (see example below) stating that they have read and understood the policy. This statement shall be signed and be kept in each employee's personnel file.

**Acknowledgment of Sexual Misconduct Policy**

This is to acknowledge that I have read and understand the Sexual Misconduct Policy of  
                     Presbyterian Church.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature