**PRESBYTERY OF EASTERN OREGON**

**SEXUAL MISCONDUCT POLICY AND ITS PROCEDURES**

I. Policy Statement

It is the policy of the Presbytery of Eastern Oregon that all church members, church officers, non-member employees, and volunteers of congregations and the presbytery 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 or acceptable for a church member, officer, employee, or volunteer to engage in sexual misconduct.

Copies of this policy and its procedures shall be made available to all congregations, volunteers, employees, and members of the presbytery. This is a policy of the Presbytery of Eastern Oregon, which governs and protects employees, officers, members, and volunteers of the presbytery. This policy and its procedures shall be made available to persons who accuse others of misconduct, including those who are or claim to be victims of sexual misconduct and their families.

II. Standards of Conduct

... As [God] who called you is holy, be holy yourselves in all your conduct; ... Tend the flock of God that is in your charge, ... not under compulsion but willingly, ... not for sordid gain but eagerly. ... not lord it over those in your charge, but be examples to the flock.

... You know that we who teach will be judged with greater strictness. 1 Pet. 1:15; 5:2–3; Jas. 3:1, NRSV

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-2.0104.

The basic principles of conduct guiding this policy are as follows:

1. Sexual misconduct is a violation of the role of church officers, employees, volunteers, counselors, supervisors, teachers, and advisers of any kind who are called upon to exercise integrity, sensitivity, and caring in a trust relationship. Sexual misconduct breaks the covenant to act in the best interests of parishioners, clients, co-workers, and families.

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, client, or employee initiates or invites sexual contact 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.

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3. Sexual misconduct takes advantage of the vulnerability of persons who are less powerful to act for their own welfare, including children, elderly, mentally and physically challenged. 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.

*Definitions*

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

1. **Child sexual abuse**; including, 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 or prurient interest of the adult person or of a third person. The term “child” as used in this policy shall refer to persons under the age of 18 at the time of alleged sexual abuse occurred. If the alleged abuse occurred over a period of time, including before the victim’s 18th birthday, the victim’s age at the time of the initial occurrence of sexual abuse shall determine whether the victim is considered a child for the purposes of this policy. The contact or interaction may or may not involve touching. Sexual contact or interaction between a child and an adult, regardless of whether the child considered it consensual or the child has or had the ability to consent to said behavior under applicable state laws, is, for the purposes of this policy, always considered nonconsensual and to be forced.
2. **Sexual abuse as defined in the Book of Orde**r: “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 office or position.” Book of Order, D-10.0401c.
3. **Sexual harassment**; defined for this policy is as follows: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
   * 1. 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;
     2. submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual;
     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; or
     4. 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 contact** (such as offensive, obsessive or suggestive language or behavior, unacceptable visual contact, unwelcome touching or fondling) **that is injurious to the physical or emotional health of another.**
6. **Sexual Malfeasance**; as defined by the broken trust resulting from sexual activities within a professional ministerial relationship that results in misuse of office or position arising from the professional ministerial relationship.
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.
8. **Church officers or officers;** as used herein, is a generic reference to deacons, ruling elders, and teaching elders.
9. **Elders;** as used herein, is a generic reference to those persons who are ruling elders, commissioned ruling elders; and teaching elders.
10. **Teaching Elders;** as used herein, refers to those persons who are teaching elders and commissioned ruling elders.
11. **Employees of Presbytery;** members of Presbytery; for the purposes of this policy only, includes, but is not limited to, permanent and temporary pastors serving the congregations and ministries of the Presbytery.” .

III. Church Response to Allegations of Sexual Misconduct

*A. Principles*

In responding to allegations of sexual misconduct, members, officers, and employees of the church should seek justice, healing and assure the protection of all persons. Where possible, the privacy of persons should be respected and confidentiality of communications should be maintained.

In responding to allegations of sexual misconduct, members, officers, and employees of the church should seek to uphold the dignity of all persons involved, including persons who are alleging harm, persons who are accused of sexual misconduct, and the families and communities of each.

The presbytery has jurisdiction over its members, officers, and employees such that if a member, officer, or employee is alleged to have committed an offense against scripture or the PC(USA) Constitution, the church has the duty to inquire into the allegations; and, if the allegations are proven, to halt and correct the behavior of the member, officer, or employee and to ensure the safety of others in the community. Allegations of sexual misconduct are always considered allegations of offense against scripture or the PC(USA) Constitution that trigger the disciplinary processes of the PC(USA) set forth in the Book of Order. In the case of an active non-member who is employed or volunteers with the church, the individual will be covered by the procedures of the personnel policies of the presbytery.

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If the person accused of sexual misconduct is no longer a member, officer, or employee of the presbytery, but the conduct occurred while the person was acting on behalf of the presbytery, the church does not have jurisdiction to correct the behavior, but it does have a duty to hear the allegations of offense and to take measures to prevent future occurrences of harm. The presbytery shall appoint an administrative committee or commission to hear the allegations of sexual misconduct.

The presbytery shall take measures to prevent future occurrences of harm through training, continuing education, and policy.

*B. Reporting Requirements*

*1. Reporting Sexual Misconduct*

A person needing to report that a member, officer, employee, or volunteer of the PC(USA) has committed sexual misconduct is encouraged to seek guidance from a PC(USA) teaching or ruling elder regarding filing the report.

Congregation: If the person who is accused of committing sexual misconduct is a member, ruling elder, deacon, volunteer, or employee of a congregation, the report of allegations should be made to the pastor, the clerk of session, or the chair of the congregation’s personnel committee. If the accused is a member or officer of the church, the church will respond by using the procedures set forth in the Rules of Discipline of the Book of Order. If the accused is a nonmember employee or volunteer, the church will respond by using procedures set forth by the session of the congregation.

Presbytery: If the person who is accused of committing sexual misconduct is a teaching elder member, the report of allegations should be made to the stated clerk of the presbytery. If the person accused of committing sexual misconduct is the stated clerk, the report of allegations shall be made to the chair of the presbytery personnel committee. When the report of allegations is placed in writing, the presbytery will respond by using the procedures set forth in the Rules of Discipline of the Book of Order. If the person who is accused of committing sexual misconduct is a volunteer or nonmember employee of the presbytery, the report of allegations should be made to either the stated clerk, the presbytery executive, or the chair of the committee on ministry of the presbytery. The presbytery will respond by using procedures set forth by policy or bylaws of the presbytery.

*2. Receiving Reports of Sexual Misconduct*

To the extent possible, the presbytery and its congregations shall ensure that its members, officers, and employees know of the existence of this policy and its reporting procedures.

It is the duty of the employees, officers, and members of the presbytery to ensure that any allegation of sexual misconduct is reported appropriately keeping in mind the mandatory reporting requirements for allegations of child abuse.

Each congregation is also responsible for instituting procedures and policies to ensure that any allegation of sexual misconduct is reported appropriately, again, keeping in mind the mandatory reporting requirements for allegations of child abuse.

Reports of allegations of sexual misconduct should never be taken lightly or disregarded and allowed to circulate without concern for the integrity and reputation of the victim, the accused, and the church. Reports of allegations should be dealt with as matters of highest confidentiality and sensitivity, both before and after they have been submitted to appropriate authorities as outlined below.

The first person to learn of an incident of sexual misconduct should not undertake an inquiry or question either the victim or the accused unless the incident is divulged by either the victim or the accused in the process of pastoral care, counseling, or a therapy session with that person. The person’s inquiry shall be limited to speaking with the person who divulged the alleged misconduct. The person initially receiving the information regarding the alleged misconduct is not to confront, question, or otherwise speak with the non-divulging person regarding the alleged misconduct as part of any informal inquiry. If the divulging person is a victim of the alleged misconduct; and, the person is hesitant to talk to “higher authorities,” the person who has received the initial report has a special pastoral responsibility to build trust and willingness to speak with the alleged victim, lest the church be unable to respond because no one is able to give firsthand information.

To the extent it is necessary to ensure that the allegations are submitted to the council having jurisdiction over the person accused of misconduct, the person receiving the initial report of allegations of sexual misconduct shall analyze the relationship of the person accused of sexual misconduct with the PC(USA) and shall ensure that the written report is submitted to the council with jurisdiction over the accused.

If the report is made orally, the person receiving the report of allegations shall request that the person making the report of allegations make the report in writing. If the person who makes the report is unwilling or unable to place it in writing, the person who received the oral report shall make and submit written statement that complies with the requirements of the Book of Order to the council with jurisdiction over the accused.

A report of allegations of sexual misconduct in writing from a member of the PC(USA) alleging another member or officer of the PC(USA) committed an offense shall be acted on according to the Rules of Discipline of the Book of Order. If a clerk or stated clerk receives a report of allegations in writing from a nonmember of the PC(USA) alleging another member or officer of the PC(USA) committed sexual misconduct, the report also shall also be acted on according to the Rules of Discipline of the Book of Order.

*3. Mandatory Reporting of Child Abuse*

*a. Ruling and Teaching Elders, Deacons, Certified Christian Educators*

All elders and deacons are required to report knowledge of child abuse to the civil and ecclesiastical authorities according to the Book of Order. The Book of Order requires that

Any member of the church engaged in ordered ministry and any certified Christian educator employed by the church or its congregation, 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 privileged communication; or (2) she or he reasonably believes that there is risk of future physical harm or abuse. (G-4.0302).

All persons covered by this policy have an additional duty to report knowledge of child sexual abuse to the employing entity, supervisor, or governing body representative. All persons should be informed of and must comply with state and local laws regarding incidents of actual or suspected child sexual abuse. These reports shall be made within a reasonable time of receiving the information, but no more than twenty-four (24) hours after than receiving the report.

Notwithstanding the person’s obligations under this policy to report child abuse, or any other types of abuse, including elder abuse, no person shall be required to do so, if doing so would violate that person’s duties and obligations under the Book of Order, federal, state, or local laws, or professional codes of conduct governing the confidentiality of information and communications received by that person.

Copies of the State of Oregon’s mandatory child abuse reporting laws and mandatory elder abuse laws in effect at the time of the adoption of this policy are attached hereto for reference.

*C. Responding*

*1. Accused Covered by Book of Order*

When an allegation of offense of sexual misconduct has been received by the clerk of session or stated clerk of the presbytery, the clerk of the governing body will report to the governing body that an offense has been alleged and that the governing body will proceed according to the procedures set forth in the Rules of Discipline of the Book of Order. The governing body shall appoint an investigating committee to inquire into the allegations. The investigating committee shall promptly begin its inquiry into the allegations and promptly contact civil authorities if it determined that the alleged misconduct may violate criminal laws. Delay may cause further harm to the victim and/or the accused.

Governing bodies and entities shall fully cooperate in good faith with civil authorities in an investigation of child sexual abuse or other criminal sexual misconduct. Church disciplinary proceedings cannot interfere with a criminal investigation by civil authorities and may have to be suspended until these are completed.

The session has original jurisdiction in disciplinary cases involving members, ruling elders, and deacons of the church, each congregation having jurisdiction only over its own members.

A presbytery has original jurisdiction in disciplinary cases involving teaching elders. A presbytery may dissolve a pastoral relationship when the “Word imperatively demands it” (G-2.0904). However, a presbytery may only place a minister on administrative leave when allegations of child abuse have been received and the presbytery has followed the Book of Order procedures to conduct its risk evaluation to determine whether or not a teaching elder accused of child abuse should be placed on administrative leave (D-10.0106). It is recommended that the permanent judicial commission (PJC) members who will conduct this risk evaluation based upon the allegations and a hearing should also take into account secular legal advice.

When a church officer renounces jurisdiction during an investigation of alleged sexual misconduct or during disciplinary proceedings resulting from the investigation of the alleged sexual misconduct, the clerk or

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Stated Clerk shall report the renunciation at the next meeting of the governing body and shall record the renunciation in the minutes of the governing body. The status of any pending charges may be shared with the governing body at that time. If the person renouncing jurisdiction does so during a disciplinary process is a teaching elder, the stated clerk shall make his or her renunciation of jurisdiction public. G-2.0509.

This presbytery shall make all efforts to ensure that:

Whenever a former teaching elder has renounced jurisdiction in the midst of a disciplinary proceeding as the accused, that former teaching elder shall not be permitted to perform any work, paid or volunteer, in any congregation or entity under the jurisdiction of the Presbyterian Church (U.S.A.). G-2.0509.

*2. Accused Not Covered by Book of Order*

When the presbytery receives an accusation of offense of sexual misconduct against a nonmember employee or volunteer, the procedural response of the presbytery will be guided by the personnel policies of the presbytery. The personnel committee will be initially responsible for the inquiry.

The committee or commission that will respond to the allegation of offense of sexual misconduct will do the following:

a. Determine whether or not the allegation gives rise to a reasonable suspicion of sexual misconduct by the accused.

b. If so, gather additional information necessary to make a decision about correcting the behavior.

c. Determine any remedies, including limiting ministry, suspension, or termination necessary and advisable under the circumstances. If the accused is a member of another denomination, that denomination will be notified of the allegations and the response.

d. Inform the victim and the accused of the actions that will be taken to address the allegations of sexual misconduct.

e. In all cases, the personnel committee shall prepare a written report, which shall be included in the accused’s permanent personnel file. The accused shall be allowed to attach any written statements to said documents, also for permanent inclusion in the permanent file.

All procedures shall follow the guidelines set forth by the presbytery

*3. Governing Body or Entity Record Keeping*

The presbytery shall 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. Such records will be kept confidential as far as possible. In Case # 208-6, the General Assembly Permanent Judicial Commission (GAPJC) interpreted the Rules of Discipline to say that a governing body or entity may share the contents of inquiry reports with other governing bodies or entities of the PC(USA)

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when necessary. The stated clerk of the presbytery shall maintain the records while the inquiry is in process and will maintain such records in permanent fashion for every employee, including ministers and persons on the roll of the presbytery serving in validated ministries.

IV Prevention and Risk Management

*A. Liability and Insurance*

The presbytery and each of its congregations shall regularly inform its liability insurance carriers of the activities and programs they operate or sponsor and of the duties and responsibilities of officers, employees, and volunteers. The standard insurance policy shall include endorsements to cover specific exposures such as camps, day-care operations, shelters, or other outreach programs.

The presbytery and each of its congregations shall obtain an endorsement to their general liability insurance policy specifically covering sexual abuse and molestation. Such coverage should provide for legal defense expenses and judgments in civil suits brought against the governing body or entity, its officers, directors, or employees.

*C. Employment Practices*

*1. Record Keeping*

The stated clerk of the presbytery shall maintain a personnel file on every employee, including, ministers and persons on the roll of the presbytery serving in validated ministries. The file should contain the application for employment, any employment questionnaires, background checks, references responses, and all other documents related to an employee’s employment, except records which may be required, by law, to be kept in separate files.

*2. Prescreening Applicants*

The presbytery and its congregations shall confirm the applicant's identity by requiring photographic identification such as a driver's license. The presbytery or the congregation (depending who is hiring the applicant) shall perform a background check, including a national criminal background check, on all applicants for employment.

Part of pre-employment screening should include specific questions related to discovering previous complaints of sexual misconduct.

*3. References*

The presbytery is responsible for contacting references for prospective ministers, temporary pastors, employees, or volunteers of the presbytery. A written record of conversations or correspondence with references should be kept in the minister or employee's personnel file by the stated clerk.

In dealing with ministers when transferring from one position to another, the governing body should delegate responsibility for previous employer reference checks either to the general presbyter or at the request of the general presbyter to persons appointed by the committee on ministry who would report to the committee on ministry or committee on preparation for ministry.

The person within the governing body or entity authorized to give a reference is obligated to give truthful information regarding allegations, inquiries, and administrative or disciplinary action related to sexual misconduct of the applicant.

4. *Background Checks*

The presbytery is responsible for performing national criminal background checks on all employees of the presbytery, including permanent and temporary ministers, prior to allowing the person to be hired by the presbytery or one of its churches, regardless of whether the person is a temporary or permanent minister. Furthermore, if the person is not an employee or minister of the presbytery, but is a commissioned ruling elder, the presbytery shall perform a national criminal background check on the commissioned ruling elder before allowing the ministry to begin.

The Presbytery shall also perform national background checks on all ministers who are members of this Presbytery who do not have an active call or that have retired.

After the initial background check, the Presbytery shall perform subsequent criminal background checks every five (5) years on each employee, member, permanent or temporary minister, and commissioned ruling elder.

No later than ninety (90) days after adoption of this Policy, the Presbytery shall perform background checks on all of its employees, members, commissioned ruling elders, and its permanent and temporary ministers.

The Stated Clerk shall be responsible for ensuring that the Presbytery performs its obligation pursuant to this Policy and shall keep records of performing said background checks in the Presbytery’s records. The Presbytery shall be responsible for the financial cost of these background checks. The Executive Council shall be responsible for ensuring that the Stated Clerk performs his or her duties. The Chairperson of the Presbytery Personnel Committee shall ensure that the background check for the Stated Clerk is performed in accordance with this policy. He or she shall make a report to the Executive Council upon completing his or her duties pursuant to this policy.

The Presbytery’s employees, its members, its permanent and temporary ministers, and its commissioned ruling elders shall cooperate in good faith and comply with the background check requirements. Upon receiving a written request pursuant to this policy, each employee, member, permanent and temporary minister, and commissioned ruling elder shall sign, date, and return the required written authorization within twenty-one (21) days of receiving the request.

V. Prevention

1. All congregations within Eastern Oregon Presbytery shall adopt rules and procedures that ensure a safe environment for all persons involved based on common practices for the prevention of sexual misconduct. These rules and procedures shall be filed with the stated clerk.”
2. Each Session shall review its policy on an annual basis.
3. All members, officers, employees, and volunteers of Eastern Oregon Presbytery shall participate in Prevention Training established by the Committee on Ministry.
4. Healthy boundaries training shall be provided at a presbytery meeting every three years.
5. All churches shall provide for preventative training for its staff, leaders, and all who work with minors.

VI. Signature and Acknowledgment.

All employees, members, teaching elders, and commissioned ruling elders shall sign this policy as an acknowledgment of their receipt of said policy and their understanding of being bound by its terms and provisions.

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As evidenced by my signature below, I have fully read and understand the Presbytery of Eastern Oregon’s *Sexual Misconduct Policy and Procedures* and I agree to be bound by its terms and provisions. I further agree to undergo a national criminal background check, pursuant to the policy herein, and to take any actions reasonably necessary to complete said background check, including, but not limited to, the signing of authorizations.

This document shall be signed in duplicate and an original copy shall be kept by the Stated Clerk of the Presbytery in the presbytery’s records with the other copy to be kept by the person required to sign this policy pursuant to its terms.

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| Signature Dated  Printed Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |  |
| RE Mike Hachquet Dated  Stated Clerk for the Presbytery of Eastern Oregon |  |