

The Presbytery of Susquehanna Valley

Proposed Sexual Ethics Policy & Procedures
History and Background

Why create a policy?

The *Book of Order* at G-30106 *Administration of Mission* provides: "All councils shall adopt and implement a sexual misconduct policy." Therefore, all sessions, presbyteries, and synods should adopt a sexual misconduct policy as soon as possible.

By implementing sexual misconduct policies the church has the opportunity to declare and affirm its core values and convictions in relation to the care of the people in the church and those who participate in its mission.

Affirmative Reasons for Adopting a Sexual Misconduct Policy

From presentations by James S. Evinger and Mel Olver: "Planning and Implementing a Church Policy on Sexual Misconduct: Prevention and Intervention," a workshop sponsored by Committee on Ministry, Presbytery of Genesee Valley in Rochester, N.Y., on October 1, 2005.

- Adopting a sexual misconduct policy sets a moral example and functions as a witness of faith.
- It sends a message to parents of children and youth: "We care that our church is a safe place."
- A policy is wise stewardship — it protects the church concerning legal and insurance liabilities.
- It creates a tool to be used by one who has been victimized.
- A policy helps a church when previously unknown incidents unexpectedly surface.
- It communicates the character of the church and works to attract or retain a quality pastor.
- A misconduct policy is an opportunity to affirm the faith, values and convictions of the church.
- It lessens the likelihood of sexual misconduct occurring.
- A policy can engage and educate the church about difficult issues we prefer to avoid.
- A policy acknowledges a sad reality that has occurred in the past and continues in the present.
- A policy is a very useful tool to the leadership if a sexual boundary violation is discovered.

Our Process

The Presbytery of Susquehanna Valley's current policy was approved on June 25, 2002. At the December 2013 meeting of the Presbytery Cabinet, three Cabinet members agreed to review the current policy with the goal of revising and updating it. Those three members were: Ruling Elder Chris Burger, Teaching Elder Lisa Ruth Mays, and Teaching Elder David Johnson.

Drawing on resources from the General Assembly, the presbyteries of Long Island and National Capital, and the policies of The United Presbyterian Church of Cortland and The United Presbyterian Church of Binghamton, the current policy of Susquehanna Valley was revised, updated, and forwarded to the Committee on Ministry for review and comment. The Committee on Ministry made several suggestions and the proposed policy was further edited and refined. The members of the Presbytery Cabinet also reviewed the proposed policy, made recommendations, and the proposed policy was finalized. The proposed policy is now shared with the members of the Presbytery of Susquehanna Valley for comment and consideration. Comments, questions, and/or concerns should be directed to:

David H. Johnson, Pastor, United Presbyterian Church, 25 Church St.. Cortland, NY 13045
 Phone: 607-756-5689
 Email: pastordave@unitedpresbyterian.net

Sexual Ethics Policy & Procedures

Within the
Presbytery of Susquehanna Valley

Revised – 10-2-14

Sexuality is central to our identity and a pervasive dimension of any human interaction. Sexuality can be used for good and creative purposes, but it can also become a basis for oppression, where trust relationships are breached and persons are abused. In response to our faith in Jesus Christ, which calls us to standards of responsible conduct in all of life, including sexual behavior, we affirm the following policy document.

I. Introduction

A. Preamble

We, the members of the Presbytery of Susquehanna Valley, the Presbyterian Church (U.S.A.), believe and proclaim that all human beings are created by God in the divine image. (Genesis 1:27) Therefore, every person, whether a child, woman or man, has inherent worth and dignity in the eyes of God. This God-given worth and dignity should be recognized and respected in all human relationships, especially in those relationships between persons in positions of leadership and authority within the church and those over whom they exercise this leadership and authority. To use the power and authority of a church office for any purpose other than to serve those who have been entrusted to one's care is an abuse of power, a betrayal of trust and God's love for each of us in Jesus Christ, and a denial of human worth and dignity. Such misconduct must not be tolerated.

In this belief, we enact the following policy on sexual misconduct in order that allegations of sexual misconduct may be treated seriously and dealt with promptly, justly and with compassion toward all affected parties.

B. Policy Statement

It is the policy of the Presbytery of Susquehanna Valley, the Presbyterian Church (U.S.A.), that all teaching elders, pastors, church officers, church members, non-member employees, and volunteers of governing bodies and entities of the Presbytery, are responsible for maintaining the integrity of pastoral, professional relationships at all times. Sexual misconduct is always a violation of such relationships and also of the principles of scripture and is never permissible. A workshop for understanding sexual misconduct is mandatory for all teaching elders and pastors in the Presbytery and offered so others may participate.

All instances of sexual misconduct must be reported to the Presbytery of Susquehanna Valley as soon as there is an allegation or reason to believe that sexual misconduct may have occurred. Once a report is made, The Presbytery of Susquehanna Valley will promptly and in the case of those under the jurisdiction of the Presbytery, handle the matter. (D-3.0101; D-3.0103; D-10.0101-02) In the case of those not under the jurisdiction of the Presbytery, the matter will be reported to an appropriate authority for handling by that authority.

Reports of sexual misconduct are serious matters and should never be taken lightly or disregarded. Each report must be referred to the Presbytery of Susquehanna Valley where it can be promptly, fully, and fairly investigated. At all times, confidentiality is imperative to protect the reporter, the alleged victim, and the alleged perpetrator.

Retaliation or reprisals against either a reporter or alleged victim of sexual misconduct will not be tolerated. Such retaliation or reprisals are misconduct in and of themselves, even if the allegation of sexual misconduct is ultimately determined to be unfounded.

C. Purposes

The Presbytery of Susquehanna Valley adopts this policy on sexual ethics and procedures for the following purposes:

1. To honor the ethic of mercy and justice we see in Jesus Christ.
2. To preserve high standards of professional and ethical conduct as stated in the Book of Order (G-2.0104).
3. To promote the peace, unity, and purity of the church.
4. To serve as a guide for prevention of sexual misconduct.
5. To safeguard the church's members and staff from abuse through any form of sexual misconduct.
6. To seek justice by assuring the effectiveness of the church's administrative, investigative and judicial process in determining truth, protecting the innocent, and dealing appropriately with those who victimize others.
7. To provide procedures for inquiry and effective response to allegations of sexual misconduct and to provide emotional, spiritual, and physical care and protection of involved persons (see specific procedure section of this policy).
8. To serve as a guide for the application of powers of the Presbytery and sessions under the Form of Government and the Rules of Discipline. (D1.0101)
9. To support the healing of all persons and congregations in which sexual misconduct has occurred or been alleged.

II. Definitions of Sexual Misconduct

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

- A. Child Sexual Abuse...includes any sexual advances *or* contact or interaction between an adult and any person under the age of eighteen years regardless of consent or anyone over the age of eighteen years without mental capacity to consent. Under the laws of New York State child abuse must be reported

to the civil authorities.

- B. Sexual abuse ... as defined in the Book of Order: “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.” (D-10.0401c)
- C. Rape or sexual contact by force, threat or intimidation.
- D. Sexual Malfeasance ... includes sexual contact (e.g. genital contact, contact with the breasts or buttocks, sexual intercourse) or sexual advances involving persons in positions of trust with persons entrusted to their care.
- E. Sexual Harassment ...includes unwelcome conduct of a sexual nature – such as body language, suggestive jokes, comments, and/or statements of an inappropriate sexual nature - that creates an intimidating or hostile environment. Sexual harassment includes conduct either in the form of threat and/or the promise of a benefit conditioned upon submission to sexual activity or advances.
- F. Sexual Impropriety... includes sexual advances or contact between persons in positions of trust and persons entrusted to their care which continues after it has been made clear that the behavior is inappropriate or unwelcome. Such behavior may be verbal or physical conduct of an inappropriate sexual nature.
- G. See *Appendix A* for further definitions related to this policy.

III. Process

A. Initial Report

An initial report of sexual misconduct may be received verbally by appropriate representatives of the Presbytery of Susquehanna Valley. All such reports shall be taken seriously and dealt with pastorally.

In order for formal disciplinary procedures to begin, such verbal allegations must be written using forms as indicated in the Rules of Discipline D-10.0102 and signed by one or more persons alleging specific incident(s) of sexual misconduct with any supporting information.

Reports of sexual misconduct may arise in a variety of ways. Because an individual church or the Presbytery cannot control to whom an accuser of sexual misconduct will first speak, it is important that all church leaders and employees understand how reports of incidents are to be channeled to the proper persons.

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, 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 alone or question either the victim or the accused unless the incident is divulged in the process of pastoral care,

counseling, or a therapy session. If the victim 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 accuser, lest the church be unable to respond because no one is able to give firsthand information.

If the report is made orally, the person receiving the report of allegations should request that the person making the report of allegations place it in writing. 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 must 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 should be acted on according to the Rules of Discipline of the Book of Order. If the person who makes the report is unwilling or unable to place it in writing, any member of the PC(USA) may make the written statement that will automatically trigger the Rules of Discipline of the Book of Order.

When a written statement of an alleged offense of sexual abuse toward any person has been received against a teaching elder or pastor, the stated clerk receiving the allegation shall immediately communicate the allegation to the permanent judicial commission. The moderator of the permanent judicial commission shall within three days designate two members, who may be from the roster of former members of the permanent judicial commission, to determine whether the accused shall be placed on a paid administrative leave during the resolution of the matter (D10.0106)

The Presbytery shall designate the Stated Clerk, the Moderator, the Vice Moderator, and the Cabinet Chair as a **Report Coordinating Team**. All written reports alleging sexual misconduct shall be submitted to all of these persons.

Upon receipt of a report of an alleged sexual misconduct the **Report Coordinating Team** shall:

1. Respond as quickly as possible;
2. Make sure that any civil or governmental laws or regulations covering the matter have been followed (particularly in cases of alleged child sexual abuse);
3. Initiate the appropriate procedures of this policy;
4. Prepare and place in the confidential files of the Presbytery a report on the matter. This report shall be retained in the confidential files of the Presbytery for one year after which time the Presbytery will destroy the report.

B. **Investigating Committee (D10.0201 -.0202)**

The **Investigating Committee** shall be comprised of individuals who are aware of and understand sexual misconduct cases. In every instance of preliminary procedure for discipline, Susquehanna Valley Presbytery will have a pool of individuals updated annually by the Committee on Ministry which includes lawyers with experience in sexual misconduct cases, and licensed counselors trained or experienced in handling sexual misconduct cases. The Report Coordinating Team selects the Investigating Committee from this pool. The report of the Investigating Committee shall be completed within 30 days with a recommendation of disciplinary action or dismissal of accusations.

C. Procedures for Disciplinary Cases

When an accusation involving an alleged offense of sexual misconduct is brought against any person under the jurisdiction of the Presbytery, a disciplinary case shall be initiated which shall be handled as stipulated by the Rules of Discipline.

D. When the accused is not under jurisdiction of the Susquehanna Valley Presbytery. It still must be dealt with as a corporate body.

Without undertaking further inquiry, the Stated Clerk shall report to the Presbytery only that an offense has been alleged without naming the alleged offender, or the nature of the alleged offense, and refer the statement immediately to the **Report Coordinating Team**.

The discipline, if it is ecclesiastical, can only be administered by the session, and then only if the person is a member of a Presbyterian church. Otherwise it is a civil case, which the policy does not cover.

Any time there is an allegation of sexual misconduct outside the jurisdiction of the Presbytery of Susquehanna Valley, the local church needs to investigate and then take appropriate action. In such instances the Presbytery of Susquehanna Valley stands ready to provide guidance to the local church.

E. Pastoral care for the accused when the accused is a member of Presbytery and the allegation is before the civil courts.

In the care of the accused, two issues to consider are:

- Compounding the damage to the individual and the congregation if the accused is continued in the same position;
- The issue of confidentiality.

During the pendency of any investigation, the **Report Coordinating Team**, in consultation with the Committee on Ministry, may suggest changes of assignment, administrative leave, or other action.

IV. RESPONSIBILITIES AND ROLES OF SUSQUEHANNA VALLEY PRESBYTERY IN POLICY IMPLEMENTATION

A. Availability of Policy and Procedures

1. All Church Professionals shall be given copies of the policy and be required to sign an acknowledgment of receipt. Such signature indicates the Church Professional's agreement to abide by the terms of this Sexual Misconduct Policy.
2. This document shall also be available to all church members and to the public.
3. SVP employees shall receive this document as a supplement to the personnel policies.
4. This policy will be sent to every clerk of session annually.

B. Management of Allegations of Sexual Misconduct by Teaching Elders or Pastors.

1. **Resource Documents.** The responsibilities, structures and procedures for responding to allegations of sexual misconduct are mandated in part by:
 - a. the Book of Order
 - b. SVP policies.
2. **Liability and Insurance.** SVP and its congregations shall periodically obtain from their insurance agents, confirmation that their liability insurance policy covers sexual misconduct liability for its programs and activities.
3. **Record Keeping.** SVP will include in every employee's personnel file, including ministers, the application for employment, any employment questionnaires, reference responses, and other documents related to this policy including a signed receipt for receiving the sexual misconduct policy.

C. Pre-employment Screening for Prospective Incoming Clergy

1. **Reference Checks.** Pre-employment screening includes specific questions related to previous complaints of sexual misconduct. SVP reviews Sexual Misconduct Information of the Presbyterian Church (USA) Personal Information Form when interviewing persons seeking ministerial calls. The Committee on Ministry is responsible for making reference checks to ascertain whether those persons have any history of sexual misconduct. A written record of conversations and correspondence with references will be kept in the minister's/employee's personnel file. The person within SVP authorized to give a reference is obligated to give truthful information regarding complaints, inquiries, and administrative or disciplinary action related to sexual misconduct by the applicant. Applicants shall be given an opportunity to correct or respond to information regarding sexual misconduct obtained from a reference check.
2. **Background Checks.** Pre-employment screening for prospective incoming teaching elders also includes a mandatory Criminal History Background Check performed by a private investigative firm which will access the misdemeanor and felony conviction records of courts in the United States. The criminal background check is based on the last seven years' residential history of the applicant. As part of the Committee on Ministry's clearance process, all prospective incoming teaching elders shall be required to sign a written consent and release form authorizing the criminal record background check. The Committee on Ministry will provide all prospective incoming teaching elders with a written disclosure that a criminal record background report will be requested. Only the Chair of the Committee on Ministry shall order and review the criminal record background reports. The discovery of a criminal conviction will not automatically exclude the person from entry into SVP and work in its congregations. The use SVP makes of the criminal record background report will be determined on an individual case by case basis. The Committee on Ministry will counsel both with the prospective teaching elder and the calling congregation where appropriate. At the same time, Committee on Ministry will take with full seriousness the failure of incoming prospective teaching elder to volunteer critically important information regarding criminal history. The Chair of

the Committee on Ministry shall ensure the confidentiality and appropriate retention of criminal record background reports. A teaching elder who claims that the information in the report is inaccurate, false or incomplete shall have the right to dispute it with the investigative firm. SVP will follow all the steps set forth in the Fair Credit Reporting Act.

D. Education

SVP has a commitment to offer, provide resources for, and to publicize educational opportunities aimed at preventing sexual misconduct in the church. SVP staff, Report Coordinating Team members, teaching elders, pastors, candidates, and all persons and committees working with the issue, including local congregations will be invited to read the resources and attend sexual misconduct prevention seminars.

APPENDIX A

Definitions:

- A. **Accused** The person against whom a claim of sexual misconduct is being made.
- B. **Accuser /Victim** The person claiming knowledge of sexual misconduct by a person covered by this policy. The accuser may or may not have been the victim of the alleged sexual misconduct. The victim is the person alleged to have been subjected to sexual misconduct by a person covered under this policy.
- C. **Church** with a capital “C” refers to the Presbyterian Church (USA). When not capitalized it refers to local churches. The word congregation is used loosely for members and participants.
- D. **Committee on Ministry.** This Committee is the pastor to constituent churches, teaching elders, and pastors.
- E. **Employee** is the comprehensive term used to cover individuals who are hired or called to work for salary or wages for the Church, a council, a particular congregation, or other entity formally related to the Church. In all cases where an employee is also a member of Presbytery, the procedures to be followed will be those provided for a member of Presbytery.
- F. **Entity** refers to any program or office managed by a board, committee, council or other body whose membership is elected by a governing body.
- G. **Council** is a representative body composed of ruling elders and teaching elders, i.e. sessions and the Presbytery. A council may establish entities such as day care centers, camps, etc., and may have both church members and non-members as employees.
- H. **Investigating Committee**, cited in this statement, refers to the committee prescribed by the *Rules of Discipline* of the Presbyterian Church (U.S.A.) for the initial phase of the Church’s formal disciplinary processes.

- I. **Judicial Process** is the means by which church discipline is implemented within the context of pastoral care and oversight. It is the exercise of authority by councils of the Church (D-2.0100-.0203).
- J. **Mandated Reporter** Is a person who is required by law to report any and all suspected incidents of child abuse, including child sexual abuse, that come to their attention. While State laws may vary, the policies of the PCUSA require all persons ordained in the Presbyterian Church (USA) (deacons, ruling elders, teaching elders, and pastors) to report all suspected incidents of child sexual abuse to ecclesiastical and civil authorities. Rape or sexual assault is a crime in every state and shall be reported to civil authorities and to the Stated Clerk.
- K. **Permanent Judicial Commission.** Councils of the Presbyterian Church (U.S.A.) are required to establish and keep a roster for a Permanent Judicial Commission to conduct a trial and to hear appeals. The Permanent Judicial Commission of the Presbytery of Susquehanna Valley is responsible for conducting trials of sexual misconduct effecting members of the Presbytery, as Sessions are in such matters relating to members of the churches.
- L. **Presbytery.** In the polity of the Presbyterian Church (U.S.A.) a Presbytery is the council having oversight of constituent churches, as well as, lay and clergy members of the Presbytery.
- M. **Principles of Church Discipline** – Book of Order D-1.0000-.0103
- N. **Prosecuting Committee** may, or may not, consist of the same persons who served as the Investigating Committee in the initial phase of the Church’s formal disciplinary processes as prescribed in the *Rules of Discipline*. This Committee is responsible for prosecuting a case against one alleged to have committed sexual misconduct when the Investigating Committee finds sufficient evidence to recommend proceeding to a trial.
- O. **Report Coordinating Team**, consisting of the Stated Clerk, the Moderator, the Vice Moderator, and the Cabinet Chair will coordinate Presbytery’s response to reports of alleged sexual misconduct within the Presbytery as indicated in III A. 1-4 of the Policy and Procedures Statement.
- P. **Volunteer** refers to those who provide services for councils and entities of 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.