

A Guide for Clergy/ Commissioned Lay Pastors



Information & Procedures Relating to Allegations of Sexual Misconduct

Prepared by
The Task Force for the
Prevention of Sexual Misconduct
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Synod of the Pacific
Presbyterian Church (U.S.A.)

*With special thanks for the assistance given by the
Sexual Exploitation Committee
of General Convention*

*This handbook is to inform persons making
allegations what to expect in the case accusations or
charges of sexual misconduct are brought against
his or her clergy/commissioned lay pastor. Refer
also to the Rule of Discipline, Book of Order of the
Presbyterian Church (U.S.A.) and to Policy and
Procedures of Sexual Misconduct Prevention,
Synod of the Pacific.*

The Episcopal Church

What constitutes clergy sexual misconduct?

The Book of Order states that an offense is an act or omission of action by a member or officer of the church that is contrary to scriptures or the Constitution of the PC (U.S.A.). According to the Rules of Discipline (B of O D10.0400 ff), 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. The policy and procedure for sexual misconduct prevention adopted by the Synod of the Pacific defines sexual abuse as “misconduct in the context of a clear breach of professional trust and/or misuse of the power, stature, influence, or authority of the clerical office. Sexual harassment means unwelcome sexual advances, requests for sexual favors and **other verbal or physical conduct of a sexual nature.**”

Sexual misconduct is a comprehensive term used in this policy to include, but is not limited to:

Child Sexual Abuse

- Rape or sexual contact by force, threat, or intimidation
- Sexual malfeasance — a breach of trust by clergy/commissioned lay pastor resulting from a relationship and/or sexual contact within a ministerial professional relationship.
- Production or distribution of pornography as defined by actions or policy statement of the General Assembly, Presbyterian Church (U.S.A.)

Sexual harassment

The definition of sexual misconduct is not meant to include non-abusive relationships between spouses.

For more details see the suggested model Presbytery Policy on Sexual Misconduct Prevention, dated May 24,

1999.

Guidelines for Appropriate Behavior

Clergy/Commissioned Lay Pastors hold an unique position of power in the church and even in society. It is imperative to understand and recognize the imbalance of power between clergy/commissioned lay pastors to parishioners/clients. Appropriate boundaries must always be maintained. Frequent pastoral calling and visits, phone conversations, extended time together and physical touching, hugging and kissing are HIGH RISK BEHAVIORS which may be perceived as unwelcome or an infringement on the rights of others. The whole area of extended counseling presents opportunities for well-meaning clergy to become emotionally entangled. Feelings naturally occur but should not be acted upon. Short-term counseling and referral to professionals for on going counseling are recommended safeguards.

Refer also the “Standards of Ethical Conduct”, as adopted by the General Assembly, 1998.

OVERVIEW OF JUDICIAL PROCESS FOR DISCIPLINARY ACTION IN THE PRESBYTERIAN CHURCH

As in civil life, many controversies, disputes, and disagreements are handled in non-judicial processes i.e., administrative action or alternative dispute resolution.

When church discipline is exercised through a judicial process it happens in a system of church courts governed by rules and procedures specified in the *Rules of Discipline* section of the Book of Order. There are two types of judicial proceedings:

- 1). **Remedial Cases** allege irregularities (doing something that should not have been done), or delinquencies (not doing what should have been done) by a governing body (Session, Presbytery, Synod or General Assembly).
- 2.) **Disciplinary Cases** involve a church member or officer who may be CENSURED for an OFFENSE.

In addition to the Book of Order, many Presbyteries have developed or adopted additional procedures for processing allegations about inappropriate ministerial behavior.

Within the Presbyterian Church there are three types of ordained leadership. Ministers of the Word and Sacrament are called and ordained by the Presbytery. Elders and Deacons are elected and ordained by the local church.

Commissioned Lay Pastors are commissioned by the presbytery to specific ministries within the presbytery.

This booklet provides guidelines for filing allegations against Ministers of the Word and Sacrament and Commissioned Lay Pastors. (B of O G-14.0801)

1. What if the relationship was consensual?

The Synod policy states that “in such a context, mutual expressions of affection do not abrogate the abusiveness of the relationship, for true consensuality may be considered, by definition, impossible between a professional and a person on that professional’s care.” In other words, even if you consider the relationship to have been consensual, clergy/commissioned lay pastor will still be held accountable under the definition of sexual abuse as a misuse of professional power.

2. How does someone start procedures against clergy/commissioned lay pastor?

Procedures are initiated by a written statement of an alleged offense, together with any supporting information which is submitted to the Stated Clerk of the Presbytery of jurisdiction. Forms can be found in the appendix to the Rules of Discipline. The Stated Clerk of the Presbytery or Session without undertaking any further inquiry reports to the governing body that an offense has been alleged. He/she does not name the accused or the nature of the offense. The statement is referred immediately to an Investigating Committee. If the accused is not in the jurisdiction of that Presbytery, the statement will be forwarded to the governing body of present jurisdiction. In the meantime, the accused will not be granted a certificate of transfer to another Presbytery while charges are pending. (Rules of Discipline in the Book of Order (B of O D10.0100 and D10.0103-4.) Any incident or suspected sexual abuse of a child must be reported to the child protective services, local law enforcement, and /or the district attorney as well.

3. Who may register an allegation?

- A. A member of a Presbyterian Church or a person under the jurisdiction of a governing body of PC(U.S.A.) May register an accusation against another member of that body. This means that someone who is not a member of a PC(U.S.A.) Church may register an allegation through someone who IS a member. This may include a non-member child.
- B. A member of a governing body receiving information from any source.
- C. A person under the jurisdiction of the PC (U.S.A.) May self accuse (B of O D10.0102).

4. What should a clergy person do when allegations are brought against him or her?

First of all, don’t panic! Refer to the Book of Order, Rules of Discipline to determine procedure. Seek council from someone whom you trust. It could be a retired Stated Clerk or the Stated Clerk of a different Presbytery

from the one in whose jurisdiction you retain your membership. You might also want to contact the Presbytery Executive, another pastor or a professional therapist. It is usually not necessary to retain an attorney at this preliminary inquiry stage. If you seek advice from an attorney, make sure they know Presbyterian law and the Rules of Discipline.

5. What will happen after accusations are filed?

An inquiry will be made by an Investigating Committee (IC) which will be appointed by a consultation of the Executive Presbyter, the chair of Committee on Ministry and the Stated Clerk. The IC will determine whether these are probable grounds or cause to believe that an offense has been committed. It will then either 1.) report that it will not file charges, 2.) Initiate, if appropriate, an alternative form of resolution or 3.) Prepare and file charges to the Permanent Judicial Commission (PJC) of the Presbytery. If it files charges, the IC will designate from among its membership, someone to prosecute the case.

(B of O D10.0200-0203).

6. Will I see a copy of allegations and charges?

The IC will provide the accused with a copy of the statement of alleged offense.

7. Will I know who brought them?

The name of the accuser is not released to the Presbytery. You will receive a copy of documents which includes the allegation and who brought the allegation to the Presbytery. The IC and the PJC are the only other ones who have access to that information. When it is appropriate, the accused and the accuser may appear before the IC or PJC and present testimony.

8. If I know who my accuser is, may I go directly to them and seek reconciliation?

No.

9. Can I discuss my situation with the session of my congregation?

No. It is not advisable to involve others at this time.

10. Would it be advisable to renounce the jurisdiction of the church?

Renunciation of the jurisdiction of the church does not exempt one from being charged and tried in the civil courts. It exempts you from being tried in the courts of the church. If you renounce jurisdiction, be advised that you are giving up your ordinations.

11. If charges are filed, what is the procedure?

Charges will be referred to the Permanent Judicial Commission of the Presbytery by the Investigating Committee. (See B of O D10.0400-0405.) The charge(s) shall be presented in writing by the IC and forwarded by the Stated Clerk to the PJC. The PJC will hold a pretrial conference no later than 30 days after receipt of the charge as determined by your presbytery according to its policy. A time shall be set for the accused to appear and the moderator of the PJC will read the charges, inform the accused of the right to counsel along with other information that may be needed. The PJC will determine which charges are to be filed and may recommend alternatives to a full trial. If a trial is to be held, all parties will agree on a date and commit to confidentiality about all proceedings.

During this time the IC may recommend that the accused be put on Administrative Leave. See your Presbytery policy for details.

12. What are the options to a full trial?

- A. In case of self accusation, the PJC will proceed immediately to some form of appropriate censure. The IC will gather information and may accompany the accused to the PJC with recommendations for censure or other appropriate measures. See your presbytery's Sexual Misconduct Policy to determine the options of reprimand, probation, rehabilitation and restoration.
- B. There may be a recommendation for Alternate Dispute Resolution (ADR) which will be some type of mediation other than a trial.
- C. A full trial. A full trial is described in Book of Order D11.000ff of the Rules of Discipline.

13. What about the cost of representation?

The accuser may be entitled to legal representation by the Presbytery. The accused is also entitled to representation by the presbytery. If other attorneys or counsel is brought in, it is the accused's responsibility to pay for such counsel. The expense of the IC is paid by the governing body when it becomes the prosecutor. Check with the Stated Clerk about your presbytery's policy regarding costs of representation.

14. If charges are proven against me, what happens?

Recommendations regarding the degree of censure come through the IC or the PJC. The PJC then determines the outcome and makes appropriate recommendations for healing. The Committee on Ministry will prepare for follow-up and supervision. You may be placed on administrative leave. You may be asked to attend counseling sessions or other appropriate programs of rehabilitation. Rehabilitation progress must be evaluated by a trained professional recommended by the Presbytery. An appropriate time frame is established for rehabilitation after which time your progress may be evaluated. Presbytery will work with your congregation to promote healing.

15. Can I appeal and how?

Appeals can only be made on the grounds of procedural matters. These can be appealed to the next highest court of the church: The Synod and the General Assembly PJC's are the next steps after Presbytery's trial is completed.

16. If the IC decides not to file charges can I be exonerated?

When charges against the accused are not proven, the Presbytery will publicize that fact as widely as is appropriate. The Committee on Ministry will recognize that the accused is wounded by the experience and will not pass on any assumption of unproven charges. Records will indicate exoneration.

17. If my ordination is removed, can I ever be restored?

It is very difficult to have one's ordination restored. After an appropriate time period and rehabilitation, ministers may apply through the Presbytery of jurisdiction for restoration of office.

*All references are from the 1999-2000
Book of Order.*