



## CHARLESTON ATLANTIC PRESBYTERY SEXUAL MISCONDUCT POLICY

### I. Policy Statement

It is the policy of Charleston Atlantic Presbytery (hereinafter referred to as CAP) that all CAP staff, church members, church officers, non-member employees, and volunteers of congregations, and entities of the church are to maintain the integrity of the ministerial, employment, and professional relationships 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 relationships. It is never permissible or acceptable for a church member, officer, employee, or volunteer to engage in sexual misconduct.

#### A. Distribution

Copies of this policy shall be provided to all employees. This policy should 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.

#### B. Application

This policy is applicable to all employees of CAP and provides guidance to all minister members of CAP as to expected behavior. It also provides guidance to any individual who believes he or she has been treated contrary to these standards. All persons are reminded that under the rules of Church discipline set out in the *Book of Order* allegations against a minister of the Word and Sacrament or a commissioned pastor must be presented to the clerk of session of that congregation.

This policy is subordinate to the provisions in the *Book of Order*. If there is any dispute between this policy and the *Book of Order*, the provisions of the *Book of Order* shall control.

### 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-2.0104a).

## **A. Principles**

The basic principles of conduct guiding this policy are as follows

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

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, student, client, or employee initiates or invites sexual content 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.

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

4. Sexual conduct between anyone in a pastoral or professional role as member of the congregation or anyone seeking spiritual guidance will be considered misconduct. Similarly, sexual conduct between an employment supervisor and a subordinate employee will be considered misconduct. When anyone approaches an officer of a congregation (elder, deacon, teacher) regarding a matter related to the church or for spiritual guidance and the relationship turns to sexual nature, the conduct is likely misconduct. Prohibited conduct includes sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature.

## **B. Definitions**

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

1. *Child sexual abuse* includes 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 gratification of the adult person or of a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult is always considered forced whether or not consented to by the child. In the Presbyterian Church (U.S.A.), the sexual abuse definition of a child is anyone under age eighteen.

2. *Sexual abuse* as defined in the *Book of Order*: "Sexual abuse is any offense involving sexual conduct in relation to any person under the age of eighteen years or anyone without the capacity to consent; or any person when the conduct includes force, threat, coercion,

intimidation, or misuse of ordered ministry or position” (*Book of Order*).

3. *Sexual harassment* includes but is not limited to unwelcome behavior directed against any individual based on sex when: (a) enduring such offensive conduct becomes a condition of continued employment or is used as a factor in decision affecting hiring, evaluation, retention; or (b) such behavior becomes severe or pervasive enough to cause a reasonable person to consider the environment and intimidating, hostile or abusive one. Specific examples include unwelcome or unwanted advances, requests for sexual favors, or any verbal, visual, or physical conduct either of a sexual nature or which is based upon the employer’s gender, the use of epithets, derogatory or obscene comments or gestures, flirtations, advances, leering, whistling, touching, pinching, assault or coerced sexual acts.

4. *Rape* or sexual contact by force, threat, or intimidation. *Sexual conduct* is 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.

5. *Sexual Malfeasance*: is 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.

6. *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 neither appropriate nor permissible to view pornography on church property or through the use of church or presbytery owned electronic devices. 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 presbytery, church or church entity or within the context of ministry.

### **III. Response to Allegations of Sexual Misconduct**

#### **A. Principles**

In responding to allegations of sexual misconduct, members, officers, and employees of the church should seek 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 CAP 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 correct the behavior of the member, officer, or employee and 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 CAP 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 written personnel policies of the presbytery or entity.

If the person accused of sexual misconduct is no longer a member, officer, or employee of the CAP, but the conduct occurred while the person was acting on behalf of CAP, 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 may appoint a committee or administrative commission to hear the allegations of sexual misconduct. The presbytery may also take measures to prevent future occurrences of harm through education and policy.

## **B. Reporting Requirements**

### **1. Reporting Sexual Misconduct**

A person needing to report that an employee or volunteer of the CAP has committed sexual misconduct should report the allegation to the Chair of the Personnel Committee or the Stated Clerk of the presbytery. A person needing to report that a minister of the Word and Sacrament or a commissioned pastor has committed sexual misconduct must make the report to the Stated Clerk of the presbytery or, if the allegation is against the Stated Clerk, must make the report to the General Presbyter.

**a. 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 teaching elder, the clerk of session, or the chair of the 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 *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.

**b. 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 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 may be made to any of the staff or volunteers of the presbytery. The presbytery will respond by using procedure set forth by policy or bylaws of the presbytery.

### **2. Receiving Reports of Sexual Misconduct**

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. The person receiving the complaint must follow the provisions of Church Discipline in the *Book of Order*.

The person receiving the initial report of allegations of sexual misconduct shall analyze the relationship of the person accused of sexual misconduct with CAP and shall make sure that the allegations of offense are filed with the session or council with jurisdiction over the person accused. This may be done by the person alleging harm or by any member of CAP.

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 staff member of CAP alleging another staff member or officer of CAP committed an offense must be acted on according to the *Book of Order*. If a clerk or stated clerk receives a report of allegations in writing from a nonmember of CAP alleging another staff member or officer of CAP 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 staff member of CAP may make the written statement that will automatically trigger the Rules of Discipline of the *Book of Order*.

### **3. Mandatory Reporting of Child Abuse**

All ruling elders, deacons, Certified Christian Educators, and teaching elders 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 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)

Further

In the exercise of pastoral care, ministers of the Word and Sacrament and ruling elders who have been commissioned by a presbytery to limited pastoral service (G-2.10)... 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, except when the person whose confidences are at issue gives express consent to reveal confidential information, then a minister of the Word and Sacrament or commissioned ruling elder, may but cannot be compelled to, reveal confidential information, or when a minister of the Word and Sacrament or commissioned ruling elder reasonably believes that there is risk of imminent bodily harm to any person. (G-4.0301)

All persons covered by this policy have an additional duty to report knowledge of child sexual abuse to the employing entity, supervisor, or session or council 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 should be made within a reasonable time of receiving the information.

These provisions of the *Book of Order* attempt to balance conflicting moral duties for officers of the Charleston Atlantic Presbytery.

For Ministers of the Word and Sacrament, the provision strives to balance the duty to protect children from future harm with the duty of a Ministers of the Word and Sacrament to hold in confidence any information revealed to them during the exercise of pastoral care in any ministry setting as defined in G-4.0301 in the *Book of Order*.

For ruling elders, deacons, and certified Christian educators, the provisions strive to balance the duty of an officer of the church to protect children from harm and any secular duty the officer may have to hold in confidence any information revealed as a result of a secular relationship such as attorney/client, counselor/client, or physician/patient. The secular duties will be a function of secular law and may vary from state to state.

### **C. Responding**

The appropriate session or entity response will vary according to the relationship of CAP with the person who is accused of sexual misconduct. Church members and officers are subject to inquiry and discipline (censure and correction) under the *Book of Order*. Non-church member employees and volunteers are subject to oversight and correction by the session or entity that employs them.

#### **1. Accused Covered by Book of Order**

The procedures in Chapter Seven of Church Discipline in the *Book of Order* shall control.

#### **2. Accused Not Covered by Book of Order**

When a session or entity receives an accusation of offense of sexual misconduct against a nonmember employee or volunteer, the procedural response of the session or entity will be guided by the written personnel policies of the session or entity. Usually, the session or entity will have a personnel committee that will be 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 remedy.

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 Session or employing agency.

### **3. Session or Entity Record Keeping**

The session or entity should 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 session or entity may share the contents of inquiry reports with other councils or entities of the Presbyterian Church USA when necessary. The clerk of the session or director of the entity will maintain the records while the inquiry is in process.

The Charleston Atlantic Presbytery shall review this policy periodically. This policy shall be given to all staff and officers-elect as part of their preparation for office.

Definitions of certain words in this document follow on the next page:

*It is noted that Charleston Atlantic Presbytery used the Presbyterian Church (U.S.A.) Sexual Misconduct Policy and Its Procedures as a guide to develop this policy. The PCUSA Policy was adopted by the 203<sup>rd</sup> General Assembly of PCUSA (1991) and updated by General Assembly of PCUSA October 2013.*

## Definitions

*Accused* is the term used to represent the person against whom a claim of sexual misconduct is made.

*Accuser* is a term used to represent 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. A person such as a family member, friend, or colleague may be the accuser.

*Employee* is the comprehensive term used to cover individuals who are hired or called to work for the Presbytery or Church for salary or wages.

*Entity* is the term used to refer to any program or office managed by a session, committee, or other body whose membership is elected by a council.

*Council* is a representative body composed of ruling elders and teaching elders: sessions, presbyteries, synods, and the General Assembly. A council may establish entities such as day-care centers, conference centers, camps, or homes for the aged. A council may have both church members and nonmembers as employees.

*Inquiry* is the term used in the Rules of Discipline to determine whether charges should be filed based upon allegations of an offense received by a session or council. See *Book of Order*, D-10.0000.

*Mandated Reporter* includes a person under the PCUSA constitution who is mandated to report to the civil authorities any reasonably held belief that there will be future harm and is also described by some states' laws as a person who is required to report any and all suspected incidents of child abuse, including child sexual abuse that come to their attention. State laws vary from defining "all persons having knowledge" as mandated reporters to specifying very limited lists of professions whose members are required to report.

*Persons Covered* by this policy includes church members, church officers, teaching elders, and nonmembers who are employees or volunteers of Charleston Atlantic Presbytery.

*Response* is the action taken by the session or entity when a report of sexual misconduct is received. It may include (1) inquiry into facts and circumstances, (2) possible disciplinary action (administrative or judicial or both), (3) pastoral care for victims and their families and others, and (4) pastoral care and rehabilitation for the accused and care for their families.

*Civil Authorities* are the governmental bodies, whether city, county, state, or federal, who are given the responsibility to investigate, criminally prosecute, and/or bring civil charges against individuals accused of sexual crimes or offenses against adults and children.

Secular Law is the body of municipal, state, and federal laws and is often referred to collectively as civil and criminal law. Prohibited behavior addressed by this policy may

result in criminal and/or civil charges filed under secular law.

*Victim* is a person claiming to have been harmed and/or abused by a person covered under this policy. Care must be taken in the disciplinary process to avoid negating the presumption of innocence. Accordingly, the term “accuser” or “alleged victim” shall be used.

*Volunteer* is the term used for those who provide services for Charleston Atlantic Presbytery. 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.