

Silver Spring Presbyterian Church



Sexual Misconduct Policy

Adopted: May 28, 2015

"As [God] who called you is holy, be holy yourselves in all your conduct."

1 Peter, 1:15

Contents

Policy Statement	4
Authority	4
Distribution	4
Standards of Conduct	4
Definitions	5
Child Sexual Abuse	5
Sexual Abuse as defined in the Book of Order	5
Sexual Harassment.....	5
Sexual Assault.....	6
Sexual Malfeasance	6
Misuse of Technology.....	6
Church Response to Allegations of Sexual Misconduct.....	7
Jurisdiction	7
Reporting Requirements.....	8
Accused Member	8
Accused Non-member	8
Presbytery	8
Higher Council or Entity of the General Assembly	8
Receiving Reports of Sexual Misconduct.....	8
Mandatory Reporting of Child Abuse.....	10
Responding.....	11
Accused is Covered by The Book of Order.....	11
Accused is Not Covered by The Book of Order	12
Recommended Best Practices	13
Record Keeping	13
Implementation.....	13
Liability and Insurance.....	13
Employment Practices	14
Awareness	14
Appendix A - Additional Definitions	15
Accused.....	15
Accuser	15
Church.....	15

Civil Authorities	15
Council.....	15
Employee	15
Entity	15
Inquiry.....	15
Mandated Reporter.....	15
Persons Covered	15
Response.....	16
Secular Law	16
Victim	16
Volunteer.....	16

SEXUAL MISCONDUCT POLICY

Silver Spring Presbyterian Church
PC (U.S.A.)

Policy Statement: It is the policy of Silver Spring Presbyterian Church (hereinafter referred to as SSPC) and the Presbyterian Church (U.S.A.) (hereinafter referred to as PC(USA)) that all church members, officers, non-member employees, volunteers, sub-contractors, consultants, and entities of the church 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. Such persons may be deemed in violation of the ministerial, pastoral and secular employment responsibilities under law. It is never permissible or acceptable for a church member, officer, employee, or volunteer to engage in sexual misconduct, especially not in connection with the mission and ministry of SSPC.

Authority: This policy is based on the recommended guidelines of the General Assembly of PC(USA).

Distribution: Copies of this policy and its procedures shall be made available to all Teaching Elders, Ruling Elders, Committees of Session, Christian Educators and such other entities or individuals associated with SSPC as the Session shall determine.

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)

The basic principles of conduct guiding this policy:

Sexual misconduct is a violation of the role of pastors, elders, deacons, volunteers, counselors, supervisors, employees or any person called upon to exercise integrity, sensitivity and caring in a trust relationship. It breaks the covenant to act in the best interests of the congregation and any entity or individual associated with the church (SSPC).

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 a member, student, client, or employee initiates or invites sexual content in the relationship, it is the pastor's, officer's, or supervisor's responsibility to maintain the appropriate role.

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

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 PC(USA), the sexual abuse definition of a child is anyone under age eighteen.

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" (Book of Order, D-10.0401c).

Sexual Harassment: Unwelcomed sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature constitute(s)

sexual harassment when:

- a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment at SSPC, or their continued status in the institution;
- b. submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual at SSPC;
- c. 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 at SSPC; or
- d. an individual is subjected, at or in connection with SSPC, to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit men, women, or children.
- e. sexual conduct at or in connection with SS PC that 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.

Sexual Assault: Defined for this policy as rape, sexual assault or any other crime of a sexual nature committed at or in connection with SSPC.

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.

Misuse of Technology: Use of technology at or in connection with SSPC that results in sexually harassing or abusing another person, including texting or emailing suggestive messages and images to persons. 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. It is never appropriate to view pornography on church property.

Church Response to Allegations of Sexual Misconduct

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.

Jurisdiction: The PC(USA) 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 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 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 written policies of the Session of SSPC.

If the person accused of sexual misconduct is no longer a member, officer, or employee of SSPC, but the conduct occurred while the person was acting at, in connection with or on behalf of SSPC, 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 Session will appoint a commission to hear the allegations of sexual misconduct. The Session may also take measures to prevent future occurrences of harm through education and policy revision.

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

Accused Member: If the person who is accused of committing sexual misconduct is a member, ruling elder, deacon, volunteer, or employee of the congregation, the report of allegations should be made to a teaching elder, the clerk of session, or a 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 Rules of Discipline of the Book of Order.

Accused Non-member: If the accused is a non-member employee or volunteer, the church will respond by using procedures set forth in the written policies of Session.

Presbytery: If the person who is accused of committing sexual misconduct is a teaching elder and member of the presbytery, 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 procedures set forth by policy or bylaws of the presbytery.

Higher Council or Entity of the General Assembly: If the person who is accused of committing sexual misconduct is an employee or volunteer of a higher council or entity, contact the council or entity directly for the appropriate person to receive the report of allegations. The report of allegations may be made to any person with supervising capacity. The entity will respond by using procedures set forth by policy or bylaws of the entity.

Receiving Reports of Sexual Misconduct: Reports of allegations of sexual misconduct will occur in a variety of ways. Because Session cannot control to whom the victim of sexual misconduct will speak first, it is important that officers, employees, and persons highly visible to church members and visitors

understand how reports of incidents are channeled to the proper person. The allegations may come from persons who have or who do not have a formal relationship with SSPC and may be made to a variety of officers or leaders within the church. It is the duty of these officers to see that any allegation of sexual misconduct is reported appropriately 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, 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 with the accuser and a willingness to speak, lest the church be unable to respond because no one is able to give firsthand information.

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 make sure that the allegations of offense are filed with the entity with jurisdiction over the person accused. This may be done by the person alleging harm or by any member of the PC(USA).

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.

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)

"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 (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). All persons covered by this policy have an additional duty to report knowledge of child sexual abuse to the employing entity, supervisor, or session 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 PC(USA). For teaching elders, the provision strives to balance the duty to protect children from future harm with the duty of a teaching elder 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.

Responding: The appropriate council or entity response will vary according to the relationship of the PC(USA) 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. Church non-member employees and volunteers are subject to oversight and correction by the Session or entity that employs them.

Accused is Covered by The Book of Order: When an allegation of sexual misconduct has been received by the Clerk of Session, the Clerk will report to the Session that an offense has been alleged and direct the Session to proceed according to the procedures set forth in the Rules of Discipline of the Book of Order.

The Session should refer the allegation to a standing investigating commission or, if one does not exist, appoint an investigating commission, to inquire into the allegations. Unless Session determines otherwise, the investigating commission should be comprised of the Clerk of Session, a chair of the Personnel Committee and a ruling elder (active or inactive) who is licensed to practice law in Pennsylvania. The investigating commission must promptly begin its inquiry into the allegations. Delay may cause further harm to the victim and for the accused.

The Session must cooperate 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.

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 teaching elder 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 member 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 take into account secular legal advice.

When a church officer renounces jurisdiction, the Clerk of Session will report the renunciation at the next meeting of the session and shall record the renunciation in the minutes of Session. The status of any pending charges may be shared with the Session at that time.

Accused is Not Covered by The Book of Order: When the Session receives an accusation of offense of sexual misconduct against a non-member employee or volunteer, the procedural response of the Session will be guided by the written policies of the Session.

Guidelines for the commission i n v e s t i n g a n allegation of offense of sexual misconduct against a non-member employee or volunteer:

- a. Determine whether or not the allegation gives rise to a reasonable suspicion of sexual misconduct by the accused.
 - i. If so,
 1. Gather additional information necessary to make a decision about correcting the behavior.
 2. 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.

3. Inform the victim and the accused of the remedy.

ii. If not, inform the victim and the accused of the commission's decision.

b. In all cases involving an employee, the investigating commission shall prepare a written report, which shall be included in the permanent personnel file of the accused.

c. The accused shall be allowed to attach any written statements to said documents, also for inclusion in their permanent personnel file.

All procedures shall follow the guidelines set forth by the Session.

Recommended Best Practices

Record Keeping: The Session 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 Sessions or entities of the PC(USA) when necessary. The Clerk of the Session will maintain the records while the inquiry is in process.

Implementation: The Book of Order requires that all Sessions adopt and implement a sexual misconduct policy (G-3.0106). The General Assembly urges all Sessions to establish policies and procedures that make it a violation of the employer's work rules to engage in sexual misconduct and encourage reporting of sexual misconduct. Sessions are strongly encouraged to take appropriate steps to inform members, employees, volunteers, and students of the church's sexual misconduct policy, the standards of conduct and the procedures for effective response when receiving a report of sexual misconduct.

Liability and Insurance: A church and/or Session can be held liable for

harm caused by sexual misconduct of an officer, teaching elder or employee based on a number of legal theories. Session should take such potential liability into consideration when establishing hiring and supervisory practices.

Session will regularly inform their liability insurance carrier of the activities and programs they operate or sponsor and of the duties and responsibilities of officers, employees and volunteers. The standard insurance policy should be enhanced by endorsements covering specific exposures such as camps, preschools, day-care, shelters and out-reach.

It is also recommended the Session include in the general liability policy provisions specifically covering sexual abuse and molestation. Such coverage may provide for legal defense expenses and judgements in civil suits brought against the Session, SSPC, its officers and employees.

Employment Practices: The Personnel Committee of Session should follow SSPC's personnel policies.

Awareness: Since the issue of sexual misconduct has become an ever more present reality, there is an emerging need to inform and create awareness among a wide variety of persons. S u c h persons include: teaching elders, ruling elders; volunteers; officers; non-professional and professional staff; ministerial candidates; professionals who will be working with this issue within the denomination and members of the congregation.

Much of a congregation's education currently happens in response to an actual case of sexual misconduct. However, it is recommended that the Session be as proactive in this area as possible offering education in a variety of settings. There already are numerous resource materials available that could be adapted to a congregation's setting.

The Session needs to make sure all SSPC employees are well acquainted with, understand, and abide by the SSPC policy and procedures. Session should offer additional training and resources, such as: a workshop during a staff meeting, a lunchtime discussion group, books, etc.

Appendix A - Additional 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.

Church refers to SSPC, unless otherwise specified.

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.

Council is a representative body composed of ruling elders and teaching elders, such as a session, presbytery, synod or General Assembly. A council may establish entities such as day-care centers, conference centers, preschools, camps, or homes for the aged. A council may have both church members and non-members as employees.

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

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

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 council. See Book of Order, D-10.0000.

Mandated Reporter includes a person under the PC(USA) constitution or state law who is mandated to report to the civil authorities any suspected incident of child abuse. .

Persons Covered by this policy includes church members, church officers, teaching elders, and non-members who are employees or volunteers of SSPC.

Response is the action taken by the council 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.

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 who is covered under this policy.

Volunteer is the term used for those who provide services for SSPC. Volunteers include persons selected or appointed to serve on boards, committees and other groups. For purposes of this policy, volunteers are treated the same as an employee.