

## **P-2 SEXUAL MISCONDUCT POLICY AND PROCEDURES**

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## I. INTRODUCTION

In recent years, sexual misconduct has become a public matter, having been quietly dispatched or ignored previously. Presbyteries, Synods and the General Assembly of the Presbyterian Church (U.S.A.) have adopted policies for the prevention and judicial management of these cases. This document applies to the Presbytery of Detroit and its constituent teaching elders, committee members, related agencies, and staff. Through its implementation, the Presbytery is establishing the norm that no sexual misconduct will be tolerated.

### A. Theological Rationale

Under the grace of God and the Lordship of Jesus Christ, the church and its people are called to behave responsibly in a connectional system that is clear in its expectations and uniform in its discipline. Biblical standards for the sanctity of marriage and for ethical behavior are based on a combination of love, justice and the equitable distribution of power. Sexual behavior is one aspect of human interaction that must be conducted justly and fairly. Our faith, under Christ, leads us to decry any interactions where people are treated without love and justice.

The church has grappled since its inception with the tension between judgment and grace as attributes of God's nature. Though grace predominates and forms the motivation of human response, judgment and discipline are expected when individual behavior affects other persons and the church body as a whole. To lightly dismiss an instance of sexual misconduct, though it appears on the surface to be gracious, is really a compounding of the misconduct. Maintaining silence, though characteristic of the church's history, is unacceptable. In the words of Paul: "All things are lawful but not all things build up. Do not seek your own advantage, but that of the other." (I Corinthians, 10:23-24)

### B. Purpose and Scope

#### 1. Purpose

It is the purpose of this policy:

- a. to define sexual misconduct in the Presbytery of Detroit;
- b. to provide standards for behavior applicable to all members of the Presbytery of Detroit: its teaching elders, commissioned ruling elders, committee members, candidates, inquirers, volunteers, employees, or any other person carrying out the programs of the Presbytery of Detroit;
- c. to provide for measures to prevent the occurrence of sexual misconduct;
- d. to provide the basis for policies to be adopted by church Sessions dealing with church members and non-ordained employees;
- e. to have a system which provides for an expeditious, professional, confidential, and caring response in sexual misconduct situations;
- f. to serve as a companion to the Book of Order but not to **supersede** any of its provisions.

#### 2. Scope

The persons governed by this policy are all members of the Presbytery of Detroit: its teaching elders, commissioned ruling elders, committee members, candidates, inquirers, volunteers, employees, or any other person carrying out the programs of the Presbytery of Detroit.

- a. Particular Churches: This policy does not purport to regulate sexual conduct within the particular churches of the Presbytery of Detroit. It is recommended that Sessions adopt policies similar to this one.
- b. Child Protection: Because of the unique issues involved in monitoring youth and child activities, this policy is not intended to serve as a full child protection policy. The Presbytery Assembly and its entities are to be given one year from the date of implementation of this policy to adopt an appropriate child protection policy (see Section V.C.2.b below).

3. Other Policies and Procedures

This policy is to be interpreted and applied consistently with any and all other applicable policies of the Presbytery of Detroit, the Presbyterian Church (U.S.A.), and state, federal, and local law.

## II. DEFINITIONS

### A. Sexual Misconduct

Sexual misconduct is the comprehensive term used in this policy to cover the following:

1. **Child sexual abuse** is any contact or interaction between a child under the age of 18 when the child is being used for sexual stimulation of adults. The behavior may or may not involve touching. Sexual behavior between an adult and a child is always considered forced whether or not there is consent.
2. **Inappropriate sexual conduct** is language, visual contact, touching or other behavior judged by the person to be injurious to his or her physical or emotional health. It involves crossing a boundary the person was attempting to set.
3. **Rape** is sexual contact by force, threat, intimidation, or coercion.
4. **Sexual malfeasance** is sexual conduct within a teaching elder or professional relationship (e.g., teaching elder with a parishioner, counselor with a client, church employee with a church member, Presbytery staff person with a volunteer). It includes unwelcome sexual advances, requests for sexual favors or conduct of a sexual nature, as well as consensual romantic relationships (see Section II.B, below).
5. **Sexual harassment** is an unwelcome sexual advance, verbal or physical contact, or display of sexually related material when:
  - a. the affected party has previously rejected those advances;
  - b. submission is explicitly or implicitly made a condition of future employment, service or care;
  - c. such conduct affects morale or performance of the individual or others involved in the situation; or
  - d. persons in the work setting claim to find the material offensive.
6. **Single party conduct** is that where no partner is involved, such as use of computers, reproduction machinery or other office equipment belonging to a governing body. When discovered it could fall under this policy.
7. **Inappropriate use of the Internet** to communicate with another to commit sexually abusive activity, including but not limited to the activities as listed above.

### B. Presumed Consent

Presumed consent is the assertion that a particular act is between consenting adults. It applies to relationships where there is no disparity of power, as between spouses or single adults who are peers or colleagues.

In this policy presumed consent does not apply to relationships between teaching elders and members or participants **in the life of the church**, supervisors and supervised, or with anyone involved with a performance review, compensation, promotion, or continued employment. Even when parties claim that a consensual agreement exists, there is an inherent imbalance of power between the two parties that undermines the assumed validity of such consent.

A relationship between a teaching elder and a church member/participant is inherently unequal **with regard to the responsibilities of the pastoral relationship**. Becoming involved in such a relationship has implications not only for the teaching elder and church member/participant, but it may also have implications for the congregation, especially if the relationship is terminated unhappily. Such a relationship is not a personal matter because it impacts the whole system of the congregation. It is recommended that a teaching elder and member/participant not pursue a romantic relationship while remaining in the same

congregation. If a teaching elder chooses to continue the relationship, one or the other **should** change churches so that the teaching elder is no longer in the pastoral role. **It is strongly recommended that** the teaching elder initiate a serious, thoughtful conversation with a trusted, but unbiased, advisor who can assist the teaching elder and the teaching elder's romantic partner to explore all of the ramifications of the emerging relationship.

### C. Presbytery Entities Involved In Sexual Misconduct Cases

1. An **Advocate** is a person who provides support and emotional and physical presence, to the alleged victim(s) and their family, the accused, family members of the accused, or the congregation involved in a sexual misconduct case. The advocate may also provide clarification of the investigative process of the church and the judicial process of the church to the person(s) with whom he or she works. The role of an advocate is not to speak for the party for whom he or she is an advocate but to inform that party of his or her rights within the investigative process. The advocate shall not give advice regarding civil remedies. When requested by the party for whom he/she is advocate, the advocate may accompany that person to meetings of Presbytery entities when that party is testifying.
2. **Committee on Ministry** continues in its constitutional role as resource to teaching elders and congregations, particularly where pastoral vacancies occur. When appropriate, the Committee on Ministry is to facilitate the employment of interim leadership competent to manage any conflict associated with the sexual misconduct case. The committee facilitates the relations between congregations, teaching elders, and the Presbytery, and resolves difficulties on behalf of the Presbytery when possible and expedient.
3. The **Executive Presbyter** maintains his or her role as resource to the Committee on Ministry. Under most circumstances the Executive Presbyter is the point of entry when an allegation of misconduct is made, and is to ensure that the proper steps are taken to bring the process to issue.
4. The **Pastoral Response Team** is a group of clergy and laity, from which panels of at least 3 persons shall be assigned to work with the person making the complaint, the accused and the affected governing body (in a congregation the Session) to make a preliminary intervention with affected parties. It has no judicial function, nor should it attempt to assume one. It shall talk with parties individually and assist them in selecting advocates; members of the Pastoral Response Team do not serve as advocates. It may maintain contact with those involved in the situation, but must assure the parties that it is not interfering with the disciplinary case in process should there be one. This team shall be responsible for the training of teaching elders and lay persons in the Presbytery in matters related to sexual misconduct, and shall take steps toward its prevention. Attendance at training sessions will be tracked and reported by the team.
5. The **Permanent Judicial Commission** is the continuing body elected by the Presbytery to conduct trials when an investigating committee files charges. The commission's structure and duties are described in D-5.000.
6. The **Investigating Committee**. This is the committee established under the Rules of Discipline to investigate any allegation of misconduct as an allegation of offense. If it determines that an offense has been committed, it will file charges with the Stated Clerk. *Amended 8/28/12.*
7. The **Stated Clerk** receives the initial complaint and notifies the Presbytery Assembly that a complaint has been received. The Clerk consults with the Executive Presbyter and the Committee on Ministry on whether the complaint warrants an administrative leave. The Clerk refers recommendations from the **Special** Investigating Committee to the Permanent Judicial Commission.

#### D. Additional Definitions

1. The **Accused** is the person against whom a claim of sexual misconduct is being made.
2. An **Accuser/victim** is the person claiming knowledge of sexual misconduct by a person covered by this policy or a person claiming to have been the subject of sexual misconduct by a person covered under this policy. The accuser may or may not have been the victim of the alleged sexual misconduct.
3. An **Employee** of the Presbytery of Detroit has been hired by the Presbytery and/or its entities to perform specific duties for the Presbytery of Detroit or its entities. The employee receives salary/remuneration from the Presbytery for work performed.
4. A **Mandated Reporter** is a person required by the laws of Michigan (and other states) to report suspected incidents of child abuse, including child sexual abuse, which come to their attention. As state laws vary, any person who knows or suspects child abuse and has questions about reporting should confer with an attorney.
5. A **Volunteer** is a person who provides services for the Presbytery and/or its entities and receives no benefit or remuneration. Volunteers include persons elected or appointed to serve on boards, committees, task forces, and other groups. For purposes of this policy, volunteers are treated the same as employees.

### III. THE PASTORAL RESPONSE TEAM

#### A. Purpose

The Pastoral Response Team shall be appointed by and serve under the authority of the Committee on Ministry and shall be confirmed by the Presbytery. The purpose of the Pastoral Response Team is to:

1. Ensure that an expeditious, professional, confidential, and caring response is made by the Presbytery to charges of sexual misconduct, particularly in a congregational environment. The Pastoral Response Team, however, is not an investigatory body and will not usurp the roles of Presbytery officials or committees, including investigating committees.
2. Lead an ongoing preventative program of continuing education for staff, clergy, volunteers, and congregations in the Presbytery, as outlined below in Section V.A.

#### B. Membership

The Pastoral Response Team shall be comprised of Presbyterian clergy and lay persons who represent a range of professional expertise, including but not limited to pastoral counseling/therapy, law, interim ministry, conflict resolution, personnel management and training, and child advocacy. The Pastoral Response Team should reflect the racial/ethnic and gender constituency of the Presbytery, and be composed of an equal number of clergy and laity.

The Pastoral Response Team should consist of at least nine persons to allow for the possibility that more than one allegation of misconduct will be pending at any particular time. Members should agree to serve for six years, in order to build experience and expertise within the group. One third of the Pastoral Response Team shall be appointed by the Committee on Ministry every other year. No person who has served a full six-year term shall be re-appointed until one full year has elapsed.

#### C. Training

The Pastoral Response Team members will receive training in dealing with sexual and ethical misconduct, with specific attention to the dynamics that are unique to the ministerial role. The cost of training the Pastoral Response Team shall be borne by the Presbytery.

In addition, the Pastoral Response Team is responsible for conducting seminars on the issues of sexual misconduct. This training shall be given yearly. See Section V.A.4., below.

#### D. Annual Review

Since this policy cannot detail all the procedures needed by the Pastoral Response Team in addressing different kinds of cases, the Pastoral Response Team shall annually evaluate this policy and recommend changes to the Committee on Ministry for approval by the Presbytery Assembly. There shall be an annual report of this evaluation made to the Presbytery Assembly at its June meeting, regardless of whether changes are recommended.

#### E. Resources

1. Through the Committee on Ministry, the Pastoral Response Team shall maintain a list of interim or supply pastors trained in responding to congregations where abuse has occurred and other resources for assisting such congregations.
2. The Presbytery shall develop a fund from which the expenses of administering this policy may be drawn.

### IV. PROCEDURES AND IMPLEMENTATION

#### A. General Principles

1. Teaching elders, ruling elders, deacons, and ministerial candidates and inquirers are subject to inquiry and discipline under the Book of Order, Rules of Discipline. This policy is intended to supplement the Rules of Discipline, not replace them.
2. Employees of the Presbytery are subject to the employee policies administered by the Presbytery Operations Ministry Team.

#### B. Sexual Misconduct and the Disciplinary Process. *Amended 8/28/12*

1. When a teaching elder is accused of sexual misconduct, two processes are begun: procedures under this policy, and judicial procedures under the Rules of Discipline. The two processes are related and in some cases overlap, but they are distinct. The judicial process is mandated by the Rules of Discipline, and where there is a conflict between the two procedures, the judicial process takes priority.
2. A case is initiated by a written allegation. In the case of a teaching elder, it is given to the Stated Clerk of the Presbytery; in the case of a ruling elder or member of a church, to the Clerk of Session. A person accused is presumed innocent until proved guilty. He or she is afforded the right of counsel at all stages, and the session or Permanent Judicial Commission may authorize payment of counsel fees **upon** application.
3. Upon receipt of a written allegation, the clerk will cause to be appointed an **Investigating Committee**, which has the duty to inquire into all the facts, contact all the witnesses, and review all the available evidence. If it determines that the accused committed an offense, and that it has sufficient evidence to prove it, the Investigating Committee will file charges with the clerk, which will begin the process of a trial. In the case of a ruling elder/member, the trial will be before the session; in the case of a teaching elder, it will be before the Permanent Judicial Commission. In evaluating the evidence for the purpose of determining whether to file charges, the Investigating Committee will take into consideration the credibility of the witnesses. If after hearing the evidence, 2/3 of the members of the Permanent Judicial Commission are persuaded beyond a reasonable doubt, they will find the accused guilty.
4. The remedies available under the Rules of Discipline are variations of "censure." This censure can be a simple reprimand to a removal from office and membership. The decision of the Permanent Judicial Commission will be read to the council and entered into the minutes. It can be appealed by the person convicted.
5. There is a matter of confidentiality to be considered. The rule is that the name of the accused and the nature of the allegations are not revealed. The clerk is required to report to the council only that allegations have been received against a member and that an Investigating Committee has been appointed. When the Investigating Committee has decided to file charges, this also is reported, without naming the accused or the charges.

This confidentiality is required because the mere allegation is sometimes enough to destroy a reputation or a career. Any trial, however, is open; that is, it is not confidential. This confidentiality, as well as the possibility of civil litigation, sets requirements for the implementation of our sexual misconduct policy. Information about the charges and the teaching elder are not public information, and should not be revealed to anyone except under very limited circumstances, and the identity of the victim must be strictly protected. The exceptions to confidentiality regarding the accused and the accusations are governed by a need to know. If an individual or a group has a need to know this information, it can be revealed to them under the following circumstances: steps must be taken to limit the dissemination strictly to that group or individual; only the amount of information necessary is to be revealed. The very difficult decision is when there is a need to know. Since matters of sexual misconduct in a church are rarely secret, and since rumors frequently abound, there can be significant damage to persons or to churches that can only be limited by accurate information. In such a case, some information can be revealed. Before doing that, it is wise to consult with the Stated Clerk. Since trials are open, confidentiality ends at that point.

### **C. The Role of the Pastoral Response Team**

1. When the Pastoral Response Team is first notified of an accusation, it shall coordinate pastoral care as needed for the accuser/victim(s), the accused, their families, the congregation, and all other involved parties. The Pastoral Response Team's responsibilities are to:
  - a. notify the affected parties of the Pastoral Response Team's role;
  - b. confirm that civil authorities have been notified, when appropriate;
  - c. assess the needs of the affected parties, congregations, entities, agencies, and governing bodies, including the need for advocates and/or an attorney or counsel.
    - 1) The Accuser/Victim(s): At least two persons from the Pastoral Response Team will meet with the accuser/victim(s) and their family to listen to their concerns and ascertain their needs. The Pastoral Response Team members' role is to help clarify options for the accuser/victim(s) so they may decide for themselves what they will choose to do, as well as make available to the accuser/victim a list of counseling resources.
    - 2) The Accused: The Pastoral Response Team, through its moderator, shall consult with the Executive Presbyter and his or her designee, to determine what support and resources should be offered to the accused. The Executive Presbyter or his or her designee will offer to arrange for at least two persons from the Pastoral Response Team to provide support, as well as make available to the accused a list of counseling resources, if requested.
    - 3) The Congregation: When a congregation is involved, the Pastoral Response Team, in consultation with the Committee on Ministry and the Executive Presbyter or his/or her designee, shall determine if it would be helpful to offer the congregation support and services. When appropriate, members of the Pastoral Response Team may be called upon to meet with the Session to advise the congregation on the kind of support and resources that are available and to help the Session plan a response to the situation.
    - 4) Resources: The Pastoral Response Team will identify the resources available for professional counseling. If the victim and/or the accused do not have insurance and are unable to assume the costs of counseling, the Presbytery shall accept responsibility for payment of counseling fees, for a reasonable time, up to a maximum of one year.
2. At no time will there be only one person in possession of knowledge of any matters pertaining to a case. At least two members of the Pastoral Response Team will be

present when meeting with the accuser, victim, accused, or witnesses. Such consultations shall always include at least one person who is of the same gender as the person being interviewed.

3. Members of the Pastoral Response Team will make reasonable efforts to guard the privacy of persons involved. Material information will be made available only to authorized persons on a need-to-know basis.
4. Should the accuser choose to file a complaint as defined in this policy, the Pastoral Response Team ceases to function in the case, other than to listen and counsel on the initiative of the parties involved.
5. Should the accuser refuse to file a complaint, the Pastoral Response Team is to continue in a supportive role with the various parties through their advocates.

#### **D. The Role of the Investigating Committee**

1. The Investigating Committee is charged, under the Rules of Discipline, with conducting an inquiry to determine whether charges should be filed (D-10.0201).
2. The Investigating Committee is appointed by the Moderator of Presbytery, in consultation with the Stated Clerk and the Executive Presbyter, for the particular case.
3. The Investigating Committee will provide the accused with a copy of the statement of the alleged offense (D-10.0202 b).
4. The Investigating Committee will determine whether sufficient grounds exist to bring the complaint to trial. If the committee determines that grounds exist, and they can reasonably be proved (D-10.0202b), the **Investigating Committee** will prosecute the case before the Presbytery Permanent Judicial Commission.
5. After the investigation is complete, the Investigating Committee, if appropriate, will initiate alternative forms of dispute resolution (D-10.0202 j), or proceed to the filing of charges (D-10.0302) and the prosecution of the case (D-10.0402).

#### **E. Appeal Process**

If the defense in a case alleges that grounds exist for an appeal (D-13.0106), the appeal shall be made to the Permanent Judicial Commission of the Synod. During the appeal process, any level of censure invoked by the Presbytery shall remain in force.

#### **F. Unsupported Allegations**

If the accused is acquitted of charges or if the investigating committee determines that the allegations are unsupported by evidence, the Executive Presbyter and his or her designee will consult with the accused to decide how best to repair any damage that may have been done to the reputation of the accused. If an allegation is found to have been submitted maliciously or without grounds, the accuser may be named and disciplinary action may be initiated. The Investigating Committee and the Pastoral Response Team should encourage the accused to file a 'request for vindication' under D-9.000.

### **V. ADDITIONAL RESPONSIBILITIES OF THE PRESBYTERY**

#### **A. Availability of the Policy and Compliance**

1. All teaching elders, ministerial candidates, and inquirers, members of the Presbytery Coordinating Cabinet, and the moderators of any of the Presbytery's entities, shall be given copies of the policy and be required to sign an acknowledgment of receipt. Such a signature constitutes an agreement by the signatory to abide by the policy and be governed by its terms.
2. This document shall also be available on request to all church members and to the public.
3. Presbytery employees shall receive this document as a supplement to the employee handbook and shall be required to sign an acknowledgment of receipt.
4. All teaching elders, ministerial candidates and inquirers, members of the Presbytery Coordinating Cabinet, the moderators of any of the Presbytery's entities, and all employees of the Presbytery of Detroit shall be required to attend a **training** offered by



the Presbytery on the issues of sexual misconduct. All new clergy are required to attend **such training** no later than one year after employment. Persons who have taken training offered by other entities, such as another Presbytery or a synod, seminary or other similar institution, **must** submit proof of that training **for review** to satisfy this requirement. Youth overnight advisors/volunteers must receive training prior to spending the night with minors at Presbytery of Detroit sponsored functions. The Pastoral Response Team or its designee will train all youth advisors/volunteers regarding this policy prior to overnight youth events.

#### **B. Management of the Policy**

1. Liability and insurance: The Presbytery shall periodically obtain from its insurance agents, confirmation that the liability insurance policy covers sexual misconduct liability for its programs and activities, if such coverage is available.
2. Record Keeping: The Presbytery of Detroit will include in every employee's personnel file, including teaching elders, 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. Screening of Applicable Persons**

1. Pre-Employment Reference Checks
  - a. Pre-employment screening includes specific questions related to previous complaints of sexual misconduct. The Presbytery reviews the *Sexual Misconduct Information of the Presbyterian Church (U.S.A.) Personal Information Form* when interviewing persons seeking ministerial calls.
  - b. The Executive Presbyter and his or her designee are responsible for making reference checks to ascertain whether persons seeking ministerial calls have any history of sexual or other misconduct. The Executive Presbyter or his or her designee will report to the Committee on Ministry either that there was no reported misconduct, or that the committee should inquire into reported sexual or other misconduct. A written record of conversations and correspondence with references will be kept in the teaching elder's/employee's file.
  - c. When the Executive Presbyter or his or her designee provides a reference, any information provided concerning complaints, inquiries, and administrative disciplinary action shall be accurate.
2. Criminal Background Checks
  - a. Pre-employment screening for prospective incoming clergy and Presbytery staff shall also include a mandatory criminal history background check, conducted by the Executive Presbyter or his or her designee, using VolunteersSelect or a similar national screening organization.
  - b. Within a year of the passage of this policy, the Presbytery Assembly and its appropriate entities shall adopt and come into compliance with a child protection policy which, among other provisions, shall require mandatory criminal background checks for all volunteers who may or will be spending the night with minors at Presbytery of Detroit sponsored functions. The background check for volunteers spending the night with minors shall take place immediately, using the same national screening organization as in Section V.C.2.a, above.
  - c. All persons for whom a background check is required 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 clergy with a written disclosure that a criminal record background report will be requested. The failure of a prospective incoming clergy person to volunteer important information regarding his or her criminal history shall prevent that person from consideration or employment in any capacity, or will be grounds for termination.

- d. The discovery of a criminal conviction will not automatically exclude a person from entry into the Presbytery and work in its congregations or with its youth. The use the Presbytery makes of the criminal record background report will be determined on an individual case-by-case basis, and shall include, where necessary, appropriate supervision of the individual. Only the Executive Presbyter or his or her designee shall order and review the criminal record background reports. The Executive Presbyter and his or her designee shall ensure the confidentiality and appropriate retention of criminal record background checks.
- e. A person who claims that the information in the report is inaccurate, false, or incomplete shall have the right to dispute it.

**D. Requests for Transfer, Release, or Renunciation of Jurisdiction**

A Session or the Presbytery is constitutionally prohibited from granting a certificate of transfer to a member while an inquiry or charges are pending (D-10.0105). The reasons for not granting a transfer may be communicated by the Clerk of Session or the Stated Clerk to the appropriate persons. Should a teaching elder renounce the jurisdiction of the Presbyterian Church (U.S.A) under G-6.0501, the Stated Clerk shall report to the governing body both the renunciation and the status of the matter at that time, including the name of the accused, the date and fact of renunciation during an investigation or trial, and the charges filed, if any. These actions shall end the Presbytery's disciplinary process. In the case of a renunciation, the Committee on Ministry shall make all reasonable efforts to provide pastoral care and justice to the accuser/victim and the congregation.

**E. Disposition of Files**

At the conclusion of a case, the records and files of all allegations and their disposition shall be delivered to the Stated Clerk as the designated custodian of all files concerning the case. No committee or its members shall keep copies of a file.

**APPENDIX A  
PROCESS IN DISCIPLINARY PROCEEDINGS**

The Presbytery of Detroit takes seriously all allegations of misconduct which may come to its attention. Such allegations will be dealt with according to the procedures contained in the Rules of Discipline. To help familiarize members of the Presbytery Assembly and its churches with these procedures, we call attention to the following facets of the disciplinary process.

**A. Initiating or Exploring the Filing of a Statement of Alleged Offense**

Anyone who believes that she or he has been a victim of professional misconduct by a member of the Presbytery or one of its employees or volunteers is advised to contact the Executive Presbyter, the Stated Clerk, the Moderator of the Committee on Ministry, or the Moderator of the Pastoral Response Team, in person or in writing.

The official who has been contacted will provide information regarding the appropriate procedure for pursuing the matter. The official will not attempt to judge the legitimacy of the allegation or seek to resolve the matter. If the allegation involves any of the above individuals, or any other official of the Presbytery, that person is barred from participating in proceedings relative to the matter.

**B. Filing a Written Allegation of Offense**

1. An individual who wishes to proceed with the formal disciplinary process is advised to file a signed, written statement of allegation with the Stated Clerk of the Presbytery or, if the accused is an ruling elder or deacon, with the Clerk of the accused's Session. The statement of allegation should state briefly the nature of the offense, the name of the accused, and provide relevant and supporting information. It need not contain full details or evidentiary material. The accuser is expected to be prepared to attest personally to the allegation in the course of the investigation and disciplinary process.

Note: The procedures which follow describe only the process followed in the Presbytery of Detroit. Disciplinary procedures in a local church will be similar to those described here. For specific details about the disciplinary process in a church, see chapter 10 of the Rules of Discipline.

2. Upon receipt of a written statement of allegation, the Presbytery Moderator, in conjunction with the Stated Clerk and the Executive Presbyter, will appoint an **Investigating Committee**. The Presbytery is informed by the Stated Clerk at its next meeting, without naming any of the individuals involved or the nature of the alleged offense.
3. Members of the **Investigating Committee** will be ruling elder and teaching elder members of the Presbytery. They will receive special orientation by the Stated Clerk or his or her designee and training in matters of process and sensitivity and are chosen to represent both particular skills and disciplines and the broader spectrum of the Presbytery's membership.
4. Upon receipt of a written statement of allegation, any need for administrative leave will be reviewed, as provided for in the Sexual Misconduct Policy of the Presbytery. The Committee on Ministry, with concurrence of the Session, shall assist in finding Temporary Supply and shall appoint an Interim Pastor for the duration of the administrative leave.

#### **C. The Initial Investigation**

1. The Investigating Committee will inform the parties of the options and procedures open to them in the disciplinary process. The committee will respect both the rights of the accused and the alleged victim(s), and will provide the accused with a copy of the statement of the alleged offense. The committee will determine whether the accused's Session or other responsible entity should be informed at this time.
2. Both the accuser/victim and the accused have the right to be represented by counsel in the course of the investigation and any subsequent trial. Under the Rules of Discipline, such counsel do not need to be licensed attorneys. They must, however, be members of the Presbyterian Church (U.S.A.). In the event the accused is unable to secure counsel, the **Permanent Judicial Commission** shall appoint counsel. Reasonable expenses for defense shall be authorized and reimbursed by the Presbytery.
3. If the Investigating Committee determines that there is probable cause to believe that a chargeable offense has been committed, and that it can be reasonably proved, the committee, under the powers assigned to it in the Rules of Discipline, may elect to file charges against the accused and proceed to prosecute the case before the Permanent Judicial Commission; or, with the agreement of both the accuser/victim and the accused, initiate the process of alternative resolution as provided in the Rules of Discipline.

#### **D. Full Judicial Process**

1. If formal charges are filed, the case will be tried before the Permanent Judicial Commission. In the event the accused is found guilty, the Commission determines the degree of censure as guided by the Rules of Discipline and reports its findings to the Presbytery Assembly.
2. In the event the accused is found innocent or the charges are not proven, the Executive Presbyter or his or her designee will consult with the accused to decide how best to proceed to repair any damage that may have been done to his or her reputation. Follow-up with the accuser will be done as deemed necessary and appropriate at the time.

#### **E. Renunciation of Jurisdiction**

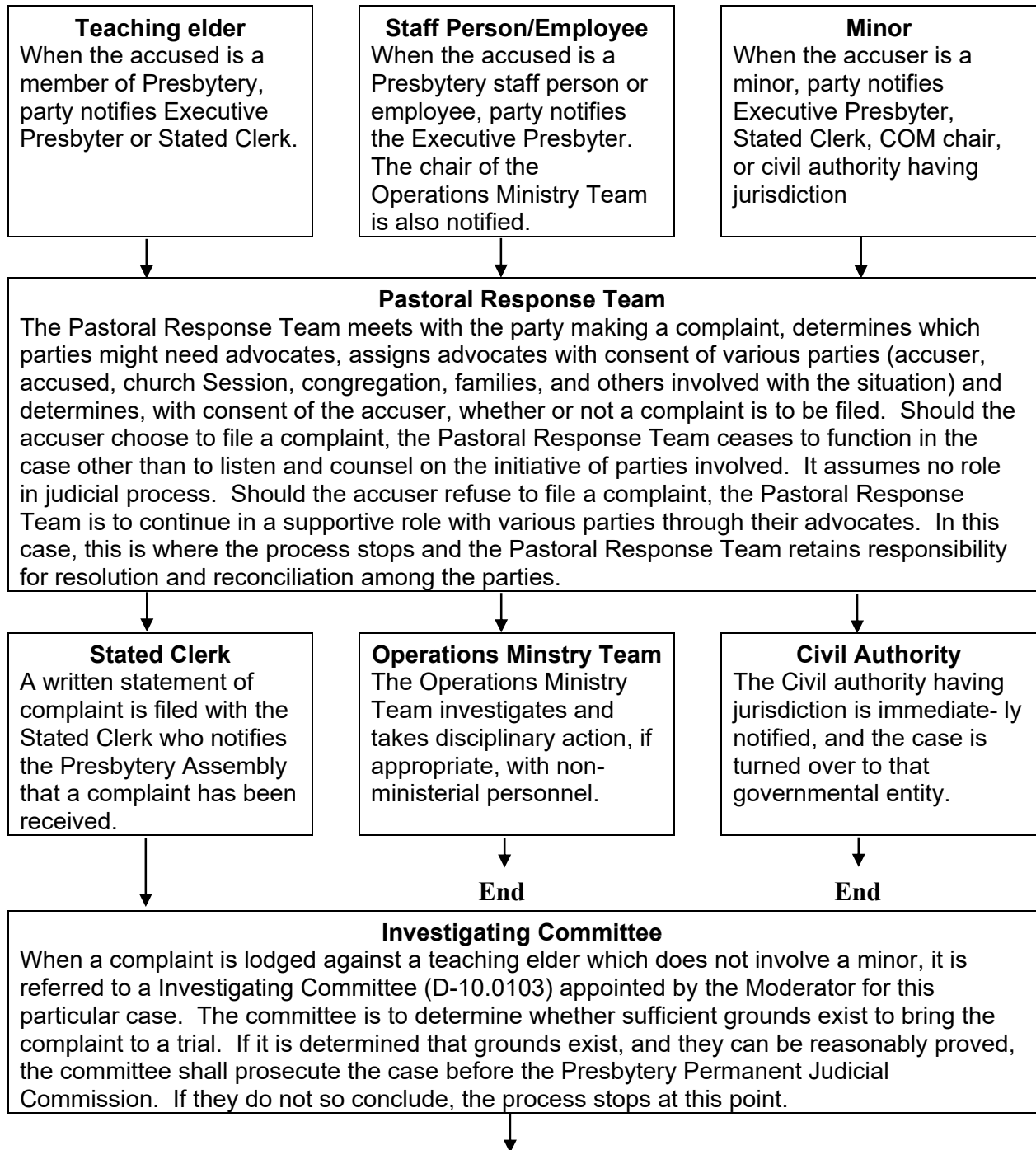
Should a teaching elder renounce the jurisdiction of the Presbyterian Church (U.S.A.) while disciplinary proceedings are pending, the Stated Clerk shall report to the Presbytery Assembly both the renunciation and the status of the matter at that time, including the name

of the accused, the date and fact of renunciation during an investigation or trial, and the charges filed, if any. These actions end the Presbytery's disciplinary process.

**APPENDIX B**

**• PROCESS FLOW IN SEXUAL MISCONDUCT SITUATIONS**

- Refer to Section IV – *Procedures and Implementation* and to Appendix A – *Process in Disciplinary Proceedings* for a more in-depth description of the process.



**GO to A**

**A**

**Permanent Judicial Commission**  
Following the work of the Investigating Committee or a civil authority, the case shall be referred to the Permanent Judicial Commission which shall conduct an ecclesiastical trial to determine whether an appropriate level of censure should be enforced (D-12.0102ff). In such a trial the Investigating Committee prosecutes the case and the defendant is to seek counsel from within the membership of the Presbyterian Church (U.S.A.). In the absence of an appeal, the decision of the Permanent Judicial Commission settles the matter.

**Appeal to the Permanent Judicial Commission of the Synod**  
Should the defense in a case allege that grounds exist for an appeal (D-13.0106) it shall be made to the Permanent Judicial Commission of the Synod. During the appeal process, any level of censure invoked by the Presbytery shall remain in force.

**Request for Vindication**  
Should a Investigating Committee conclude that grounds for filing charges do not exist and that the complaint was frivolous or defamatory to the person accused, it would be appropriate for the Presbytery to take remedial action to defend that person's reputation. The Pastoral Response Team and the Investigating Committee should encourage the accused to file a 'request for vindication' under D-9.0000.

Throughout the process described above, from accusation to resolution, the Committee on Ministry shall ensure that the congregation involved receives appropriate care, including the appointment of interim pastoral leadership trained in the management of sexual misconduct cases. Should a pastor be placed on administrative leave, this interim appointment, in consultation with the church Session, should be made with dispatch.

**APPENDIX C**

**MANDATORY REPORTING OF SUSPECTED CHILD ABUSE**

**MICHIGAN:**

For child abuse occurring in Michigan, contact the Child Protective Service emergency contact number for the appropriate county. The website giving information for each Michigan County is:

[http://www.michigan.gov/fia/0,1607,7-124-5452\\_7119\\_7193-15252--,00.html](http://www.michigan.gov/fia/0,1607,7-124-5452_7119_7193-15252--,00.html)

**APPENDIX D**

**ACCUSATION OF SEXUAL MISCONDUCT**

Date of Report: \_\_\_\_\_ Date Received by Stated Clerk: \_\_\_\_\_

**1. ACCUSER INFORMATION** (please print)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ / \_\_\_\_\_ - \_\_\_\_\_

Church Membership: \_\_\_\_\_

Ordination: Ruling Elder \_\_\_\_\_ Deacon \_\_\_\_\_ Teaching elder \_\_\_\_\_ Other \_\_\_\_\_

Currently serving: Yes: \_\_\_\_\_ No: \_\_\_\_\_

**2. ALLEGED VICTIM INFORMATION** (if different from accuser) (please print)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ / \_\_\_\_\_ - \_\_\_\_\_

Church Membership: \_\_\_\_\_

Ordination: Ruling Elder \_\_\_\_\_ Deacon \_\_\_\_\_ Teaching elder \_\_\_\_\_ Other \_\_\_\_\_

Currently serving: Yes: \_\_\_\_\_ No: \_\_\_\_\_

**3. ACCUSED INFORMATION** (please print)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ / \_\_\_\_\_ - \_\_\_\_\_

Church Membership: \_\_\_\_\_

Position: Ruling Elder \_\_\_\_\_ Deacon \_\_\_\_\_ Teaching elder \_\_\_\_\_ Other \_\_\_\_\_

Presbytery Staff \_\_\_\_\_ Presbytery Volunteer \_\_\_\_\_

**4. ALLEGATION**

Being as specific as possible, please list incident(s) of sexual misconduct, including date(s), time(s), and location(s). If more space is needed, please staple additional comments to this form.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**5. POSSIBLE WITNESSES**

Please list the name, address, and phone number of persons who may have information related to or pertinent to this accusation.

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**6. OTHER INFORMATION**

Please identify any additional information that may be helpful to the investigation.

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**APPENDIX E  
THE PRESBYTERY OF DETROIT  
POLICY ON ADMINISTRATIVE LEAVE**

**A. The Policy**

Under appropriate circumstances, teaching elders who are being investigated for professional misconduct should be temporarily removed from their ministerial positions. Under no circumstances will administrative leave be required when there is no concurrent disciplinary proceeding in process under the Rules of Discipline. The conditions in which administrative leave is appropriate include, but are not limited to, situations where:

1. the facts described in a statement of alleged offense, or where the investigating committee in the course of its investigation uncovers allegations of facts which, if true, pose a significant present risk of sexual abuse, as defined in the Presbytery of Detroit’s Sexual Misconduct Policy, particularly to children or those unable to consent because of physical or mental disability;

2. the facts described in a statement of alleged offense, or where the investigating committee, in the course of its investigation uncovers allegations of facts which, if true, pose a present risk of serious physical, emotional, or financial harm, particularly to children or those unable to consent because of physical or mental disability;
3. relations between the teaching elder and the congregation or entity he or she serves have become severely conflicted in the course of the disciplinary process.

**B. Application**

When the Stated Clerk of the Presbytery receives a written statement of an alleged offense, in addition to initiating the procedures required by the Rules of Discipline, the Stated Clerk shall consult with the Executive Presbyter and the moderator of the Committee on Ministry. If it is their unanimous judgment that the complaint warrants administrative leave, the Stated Clerk will notify the teaching elder and the local Session that the teaching elder is placed on administrative leave. All persons placed on administrative leave are none-the-less to be presumed innocent until proven guilty.

**C. Term**

The duration of administrative leave will be set by the Committee on Ministry and will depend upon the time needed for the investigative and judicial process. The investigation will proceed to conclusion with all deliberate speed, mindful of the financial obligations of those involved.

**D. Conduct of Teaching elder on Leave**

The teaching elder on leave shall:

1. not initiate or sustain contact with any member of the church staff or any member of the congregation (other than family members) except under the following circumstances:
  - a. one member of the staff may be designated, by prior mutual agreement, to deliver personal mail or other personal effects to the teaching elder on administrative leave; or
  - b. when contact has been authorized by the Stated Clerk for the purpose of preparing a defense.

All other contact with the congregation shall be through the moderator appointed by the Committee on Ministry and/or through his or her designee. Even in non-church events such as scouting, school, or sports programs, the teaching elder shall not use social contact with church members to garner support for his or her case;

2. remain out of all church buildings and off church grounds (excluding a manse and/or a school on the church property when the teaching elder is in the role of a parent of a child enrolled in the school) throughout the duration of administrative leave;
3. not conduct worship services, weddings, funerals, administer the sacraments or engage in any form of pastoral leadership in the congregation which the teaching elder serves, or in funeral homes, wedding chapels, or in any other congregation in the Presbytery or any other Presbytery. Provisions may be made with the Stated Clerk, Executive Presbyter, or the Committee on Ministry in those cases where the teaching elder's pastoral care is requested by his or her own family;
4. not attend Session meetings or meetings of any other board of the congregation.

**E. Financial Arrangements**

1. Because a teaching elder on administrative leave is presumed innocent, he or she will continue to receive full salary, housing allowance, and medical and pension benefits as defined by his or her terms of call. However, expense allowances, including educational benefits, shall not be paid. The period during which financial support is paid shall be set by the Committee on Ministry and shall not ordinarily exceed one year. If the administrative leave is extended, the terms of call may be amended by the congregation, with the approval of the Committee on Ministry and the Presbytery.
2. Ordinarily, these costs shall be borne by the teaching elder's congregation. In the event the congregation cannot afford to honor the accused teaching elder's terms of call and pay for interim leadership, the costs of interim leadership may be borne in whole or in part by the



Presbytery of Detroit. The reasonableness of these costs shall be determined by the Committee on Ministry.

**F. Enforcement:**

**Any violations of the terms of a person's administrative leave shall be reported to the Stated Clerk of the Presbytery, and may themselves become the subject of disciplinary proceedings.**

*Amended 8/28/2012*

**PRESBYTERY OF DETROIT**  
**ADMINISTRATIVE LEAVE**  
**FINANCIAL TERMS OF AGREEMENT**

Date: \_\_\_\_\_

During the period of administrative leave, from \_\_\_\_\_ to \_\_\_\_\_, the Session and congregation of \_\_\_\_\_ Church agree to continue to pay \_\_\_\_\_ according to the current terms of call, not including expense allowances and/or educational benefits.

If the administrative leave is extended beyond the aforementioned date, the congregation has a right to amend the terms of call, with the approval of the Committee on Ministry and the Presbytery Assembly. Any amendment of the terms of call must be negotiated by the Committee on Ministry and the Session, in consultation with the teaching elder, and put before the congregation for approval.

\_\_\_\_\_  
(COM Representative)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Teaching elder)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Clerk of Session)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Stated Clerk)

\_\_\_\_\_  
(Date)

**APPENDIX F**

- RECEIPT AND ACKNOWLEDGMENT OF
- SEXUAL MISCONDUCT POLICY AND PROCEDURES

*I have received the Presbytery of Detroit Sexual Misconduct Policy and Procedures and acknowledge its contents.*

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Position(s): \_\_\_\_\_

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*I agree to abide by the standards of the Presbytery of Detroit Sexual Misconduct Policy and Procedures as long as I remain a teaching elder, ministerial candidate or inquirer, employee, volunteer, or work in a position carrying out the programs of the Presbytery of Detroit.*

*I acknowledge that any amendments to this Sexual Misconduct Policy require approval of the Presbytery, and thus will appear in Presbytery papers before the meeting and will be in the minutes of that meeting. Those papers and minutes are posted on line on the Presbytery web site. Moreover, I acknowledge that this Sexual Misconduct Policy is included on the Policies and Procedures Manual, which is posted on the Presbytery web site. I accept that it is my responsibility to review all changes to the policy as they are posted, and that I will abide by the Sexual Misconduct Policy as amended subsequent to the date of my signature.*

Name: \_\_\_\_\_

Date: \_\_\_\_\_

*Approved 4/26/05  
Amended 11/22/11  
Amended 8/28/12  
Amended 4/22/14  
Amended 11/21/15*