

**Saint Mark Presbyterian Church in North Bethesda, MD
Policy on Sexual Misconduct**

Approved: 03/20/2012

STATEMENT OF PURPOSE

The purposes of this policy are:

1. To safeguard from abuse through any form of sexual misconduct the church's staff, members, children, persons who attend our services, and others who participate in our programs and use our facilities.
2. To ensure that all ministers, elders, deacons, other church officers, church school teachers, youth leaders, employees, members, and others using church facilities clearly understand the policy.
3. To describe the steps to be taken when employing staff, contracting for personal services or using volunteers.
4. To seek justice, protect the innocent and deal appropriately with those who victimize others.
5. To assist in the healing of all persons when sexual misconduct has occurred.

POLICY STATEMENT

Sexual misconduct is an abuse of power and trust. It is never permissible and is a violation of the principles set forth in Scripture and of the policy of this church.

Saint Mark Presbyterian Church seeks to provide a sexual harassment-free environment for all employees and to be a place of personal safety for all children and adults who participate in our programs and use our facilities. All participants in the work and activities of the church or those who use the facilities of the church shall conduct themselves in an honorable and ethical manner and shall not engage in sexual misconduct.

This policy applies to Church Professionals (pastors, certified Christian educators), the officers and members of this church, all persons working under its supervision, all persons serving in the program and activities of the church as volunteers or as paid employees and all those who have been given permission to use the facilities of the church for their independent activities.

The responsibility for maintaining appropriate sexual boundaries belongs to the professional church staff, employees, and volunteer leaders. This policy recognizes no statute of limitations as to when sexual misconduct may have occurred for reporting purposes.

THEOLOGICAL BASIS

God intends for the church to be a safe place for all to encounter God and grow into lives of service and fulfillment. We are called to be a holy community. "As the one who called you is holy, be holy yourselves in all your conduct." (1Peter 1:15)
All persons are created by God, in the image of God. (Genesis 1:27) The gospels tell stories of Jesus ministering to men, women and children, teaching and healing all who came to him, treating them with dignity and respect. Throughout the scriptures God calls us to honor the integrity of our neighbors, and their personhood. God intends all persons to have worth and dignity in their relationships. We are one connected body, and when one part of the body is injured physically, emotionally or spiritually, the entire body is rendered less than God intended. Misconduct of a sexual nature of any kind violates a person's wholeness and is an unjust use of status and power. It is sinful behavior against God and the other person(s). The scriptures witness to a God whose love brings about justice, mercy and grace. The Church is called to express God's love in concrete actions of compassion and healing for all God's people.

DEFINITIONS

A. **SEXUAL MISCONDUCT** is the comprehensive term used to include:

1. *Child sexual abuse*: includes, but is not limited to, any contact or interaction between an adult and a child wherein the child is being used for the sexual stimulation of the adult or of a third person. The behavior may or may not include touching. Sexual behavior between a child and an adult is always considered forced whether or not consented to by the child. Child abuse when discovered must be reported to the civil authorities immediately.

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 office or position" (*Book of Order*, D-10.0401c).

2. *Sexual Harassment*: unwelcome sexual advances, requests for sexual favors, all other verbal and physical conduct constitute sexual harassment when submission to such conduct is made, either implicitly or explicitly, a condition of an individual's employment or status in an institution, or is used as a basis for employment decisions affecting the individual, or creates an intimidating,

hostile or offensive working environment based on the declared judgment of the affected individual. 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; or when an individual is subjected to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit men, women, or children. For the Presbyterian Church, sexual harassment also includes sexualized behavior which may affect a congregant's ability to find sanctuary in the worship environment.

3. *Rape* or sexual contact by force, threat, or intimidation.
4. *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 never appropriate to view pornography on church property. 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.
5. *Sexual malfeasance*: Sexual advances toward those for whose spiritual welfare one is responsible by one's position in the church. Such behavior can be verbal or physical conduct of an inappropriately sexual nature (e.g., risqué jokes, innuendoes, insults, ingratiating and overly solicitous behavior, including sexually inappropriate visits and phone calls, seductions and fondling).

B. PERSONS AND GROUPS

1. *Accused*: the person against whom a claim of sexual misconduct is made.
2. *Accuser*: a person claiming the knowledge of sexual misconduct by someone covered by this policy. The accuser may be the victim of alleged sexual misconduct, a family member or other caregiver, friend or colleague of the victim, or anyone who observes the enactment of sexual misconduct.
3. *Advocate*: A person chosen by the accused, the accuser or the alleged victim or the alleged victim's parent or guardian to accompany him or her at any or all stages of the process. In this policy "advocate" does not denote legal representation. The advocate must be a member of the Presbyterian Church (USA).
4. *Victim*: The person alleged to have been injured by sexual misconduct.

5. *Investigating Committee:* A team of 3-5 persons appointed by the Session. The investigating committee does fact-finding, works with the parties involved, and reports findings and recommendations to the Session. The Investigating Committee must also be available to prosecute the case if it comes before the Session upon the Investigating Committee's recommendation.
6. *Mandated Reporter:* A person who is required by law to report any and all suspected incidents of child abuse, including child sexual abuse, that come to their attention. The policy of the PC(USA) require all persons ordained in the Presbyterian Church (USA) to report all suspected incidents of child abuse to ecclesiastical and civil authorities, including the Maryland Department of Children and Family Services at their hotline.

REPORTING REQUIREMENTS

- A. Known or suspected sexual misconduct by Church Professionals, employee, congregant, church officer or persons allowed to use building facility involving
- Rape or Sexual Assault
 - Sexual Abuse of children under the age of eighteen or one who allegedly lacks the mental capacity to consent or
 - Any misconduct that violates criminal law

shall be reported immediately to civil authorities, to the Clerk of Session of Saint Mark Presbyterian Church and to the Stated Clerk of the National Capital Presbytery. Parents/guardians of children under the age of eighteen shall also be notified unless involved in the abuse.

- B. Known sexual misconduct involving an employee, congregant, church officer or persons allowed to use building facility involving
- sexual harassment (staff or congregants)
 - viewing, storing or transmitting pornographic material for any purpose on church property and/or with church-owned devices such as, but not limited to computers or cellular telephone

shall be reported to the Clerk of Session and to other authorities where required.

- C. Known misconduct by the Professional Church Staff (Pastors/Certified Educators) shall also be reported to the Stated Clerk of the National Capital Presbytery (NCP) per policies on file at the NCP.

- D. Known misconduct by the Clerk of Session shall be reported to at least one of the Ruling Elders of the church.

COMPLAINT PROCEDURES

Saint Mark Presbyterian Church (SMPC) will respect the rights of all parties involved: accusers, victims, and the accused. These rights include the right to be heard and taken seriously, the right to legal counsel, and the right to assurance that justice will be pursued. From the time that sexual misconduct is reported, all persons shall receive immediate attention and serious consideration from those representing SMPC. All parties will also have the right to become engaged in work toward healing and reconciliation.

1. The church shall respond promptly to all reports of sexual misconduct with concern for all parties involved. Any person receiving an initial report of sexual misconduct shall immediately inform the Clerk of Session.
2. Any person who has reason to believe that s/he has been subjected to sexual misconduct, who has witnessed acts of sexual misconduct committed upon others or has been told by a child that s/he has been subjected to such behavior will report the incident to a Clergy member or a Ruling Elder who will immediately notify the Clerk of Session. Alternatively, the report may be made directly to the Clerk of Session.
3. All complaints of sexual misconduct, whether made in writing or orally, shall be taken seriously and investigated promptly.
4. Once a written complaint is received the matter shall be referred immediately to an investigating committee appointed by the session of the church.
5. The Accuser must be told that upon the receipt of a written complaint, the accused will be informed in writing that a complaint has been filed. If the victim is under 18 years of age or if the sexual misconduct violates criminal law, the accuser shall be informed that the matter will also be referred immediately to the appropriate legal authorities.
6. The complaint shall include the date(s) and approximate time(s) of the alleged sexual misconduct; the identities of the Accused, Accuser and/or Victim; the location(s) of the incident(s), the specific act(s) of sexual misconduct; and the names of all witnesses and persons with relevant information. The written complaint must be signed by the Accuser.

7. The Victim's parent/guardian shall be notified of receipt of a complaint of misconduct against a minor or person with diminished mental capacity.
8. The Investigating Committee of the church shall review the complaint and interview all parties. It may hold a hearing in which all involved parties may participate. The parties may be represented by an Advocate. All rights of both Accused and Victim shall be preserved.
9. Upon completion of its inquiry, the investigating committee of the church shall report to the Session and recommend appropriate action to resolve the complaint.
10. If efforts to resolve the complaint are not successful by the Session, an appeal can be made to the Stated Clerk of the National Capital Presbytery.
11. All records of actions including conversations with the Accuser, Accused and Victim shall be kept confidential and maintained permanently by the Clerk of Session in a file separate from any public records.
12. In all cases the Book of Order of the Presbyterian Church (USA) shall be followed.

PREVENTIVE MEASURES

A. Implementation

Copies of this policy shall be distributed to all clergy, officers, employees, church school teachers, youth leaders, and to each inside and outside organization using the facilities of the church. As new persons come into these positions and new organizations use the facilities, they too shall receive copies of this policy. Training shall be provided to appropriate staff, clergy, officers, employees, teachers/volunteers on this policy. The Personnel Committee of SMPC shall establish training procedures/requirements. Training will be documented in a church log or file.

B. Liability and Insurance

The Session of SMPC shall confirm that the liability insurance policy covers sexual misconduct liability for its programs and activities.

C. Employment Practices

The church shall maintain a personnel file on all employees. If the applicant is unknown, the church shall confirm the identity of the applicant. The church representatives shall make specific enquiries to discover if there are any civil, criminal, or ecclesiastical

complaints that were sustained against him/her for sexual misconduct or if s/he was ever required to seek professional treatment for reasons of sexual misconduct. The church shall contact references for prospective employees. A written record of conversations or correspondence with an applicant's references shall be kept in the employee's personnel file.

D. Rules for Children Focused Ministries (Adult and Children)

1. Persons who are known to have committed a previous act of sexual misconduct are prohibited from teaching or supervising students either on a paid or volunteer basis.
2. Annually, the Session shall review and approve teachers and childcare staff.
3. All teachers will be members of the congregation for at least one full calendar year prior to teaching or substituting for teacher. Exceptions to this rule will be approved on a case by case basis by the Session. Examples of exception include parents who may choose to remain in the nursery or classroom with the child(ren).
4. Other volunteers who work with children must meet a minimum standard of six (6) months of active membership. Exceptions to this minimum standard include parents/guardians who choose to remain in the nursery or 2/3 year old class with their child(ren) or parents/guardians who choose to accompany their child(ren) in children focused ministry activities.
5. Persons who are hired as full or part time childcare staff will be interviewed by elders and the pastor, have three written references all of whom are contacted by telephone, and have a police records check as a precondition to their employment. Any prospective employee shall sign a statement disclosing any prior criminal convictions or affirming that he or she has none.
6. Classrooms will have open access and be subject to observation.
7. Teachers and childcare staff will attend an annual training meeting at which this policy will be reviewed and discussed.

E. Rules for Youth Focused Activities

Leaders for Youth Ministry activities are subject to the rules for the child-focused ministries and to these additional provisions:

1. There shall be at least two adults present for all activities outside of church school.

2. At no time will an adult and a youth be isolated from the group.
3. During dismissal times, whenever possible, no youth will remain behind alone under the supervision of only one adult.

F. Other Activities in the Church.

Any inappropriate behavior shall be reported immediately, (see complaint procedures) All groups who use the Church facilities will be provided with a copy of this policy.

DISCIPLINARY AND REMEDIAL ACTION

1. In cases involving members under the jurisdiction of the Presbyterian Church (USA) disciplinary action shall follow those provided in The Book of Order.
2. In cases involving employees and contract staff (not under the jurisdiction of the Presbyterian Church (USA)) found in violation of this policy, disciplinary action shall be taken commensurate with the degree of misconduct. Disciplinary and remedial action may be progressive in nature and include, but is not limited to the following:
 - Requirement of an apology and direction to cease the misconduct
 - Referral to counseling or mediation
 - Reassignment or change of work schedule to minimize contact between parties
 - Demotion
 - Suspension (with or without pay)
 - Termination
 - Referral to the criminal justice system

HEALING AND RECONCILIATION

The Session shall appoint a team to devise a plan of action to lead towards healing for all parties involved.

CHURCH POLICY NOTIFICATION AND ACCEPTANCE

I have read the attached Policy of Saint Mark Presbyterian Church Policy on Sexual Misconduct.

I agree to adhere to the requirements stated therein.

I also understand that instances of rape or sexual assault and any sexual relationships with minors will be reported to the Civil Authorities.

Printed Name

Signature

Date

Appendix A
Application for Employment to Work with Children and Youth

Personal Information

(Please attach a copy of photographic identification (e.g. copy of driver's license))

Date: _____

Name: _____

Source of identification for background check _____

Present Address _____

How long at this address _____

Previous Address (if lived at current address less than 5 years) _____

Telephone number(s)

Home _____ Mobile _____ Work _____

1. Are you 18 years or older

YES NO

2. Have you ever been convicted of or pleaded guilty to a crime?

YES (if yes, please describe below) NO

3. Have you ever engaged in, or been accused of, any child molestation, exploitation or abuse?

Yes NO

