

Bold Italic = omit

Bold underlined = addition

AMENDED SEXUAL ***ASSAULT*** MISCONDUCT POLICY
PRESBYTERY OF YELLOWSTONE, PC (USA)
STATE OF MONTANA

We believe that Scripture and our faith in Jesus Christ call us to standards of responsible conduct in all of life, including sexual behavior. Human sexuality is an integral part of who we are as persons. However, it can become the basis for oppression, where trust relationships are breached and persons are abused.

A. GUIDING PRINCIPLES

It is the policy of the Presbytery of Yellowstone that all members of Presbytery (***ordained ministers teaching elders***), all persons on other rolls of Presbytery (commissioned ruling elders, commissioned church workers, certified Christian educators, inquirers and candidates), all employees of Presbytery (whether ordained to church office or not), and all who serve or function on behalf of the presbytery as volunteers, are to maintain at all times the integrity of ministerial, employment, professional and ecclesiastical relationships. Sexual misconduct is always a violation of such relationships and of the principles set forth in Scripture. It is never permissible or acceptable.

It is the responsibility of the Presbytery of Yellowstone to respond in a timely and competent manner with regard to any allegations of violation of its policy and procedures on sexual misconduct. It is the Presbytery's desire and intent to provide an effective, caring, just and expeditious response to all persons and entities which may be affected by either an actual violation or alleged violation of sexual ethics. Reports of sexual misconduct shall always be taken seriously. They shall never be disregarded or allowed to circulate without concern for the integrity and reputation of all parties, including the accuser, the alleged victim(s), the accused and the Church. Within the requirements of civil law, privacy of all persons will be respected and all communication kept confidential insofar as possible and appropriate. They should be dealt with confidentially insofar as possible and appropriate. Attempts to obfuscate, dismiss, cover up and/or prevent filing of reports of alleged sexual misconduct shall, in and of themselves, be deemed a violation of this policy.

It is further the policy of the Presbytery of Yellowstone that each of its member churches and entities operating within and/or under the authority of the Presbytery shall adopt a policy for safeguarding its **member congregations, clergy teaching elders**, commissioned ruling elders, commissioned church workers, certified Christian educators, staff, children, visitors and employees, **inquirers and candidates** against sexual abuse and inform its congregations of the policy. Copies of such policies shall be kept on file with the Presbytery.

B. PURPOSE The purpose of this policy is:

1. to make explicit the Presbytery's opposition to any **sexually abusive behavior** and/or oppressive, degrading environments in employment and other Church relationships;

2. to safeguard, insofar as possible, the Church's members, prospective members and visitors, children who participate in church programs, **clergy teaching elders, ruling elders and commissioned ruling elders, inquirers/candidates, volunteers** and staff from **abuse** through any form of sexual misconduct;
3. to provide appropriate and timely remedies and discipline in cases where sexual misconduct has been alleged or found to be factual;
4. to seek justice by assuring effectiveness of the church's administrative, investigative and judicial process in determining truth, protecting the innocent, and dealing appropriately with those who victimize others;
5. to provide pastoral care and to promote healing of all persons and congregations who may be affected by sexual misconduct or an allegation thereof.

C. APPLICATION

This policy and procedure of the Presbytery of Yellowstone applies to all continuing members of Presbytery (***ordained ministers teaching elders***), all persons on other rolls of Presbytery (commissioned ruling elders, commissioned church workers, certified Christian educators, inquirers and candidates), all employees of Yellowstone Presbytery (whether ordained to church office or not), and all who function on behalf of the presbytery as volunteers. ***Ministers Teaching Elders*** or lay leaders serving churches in a pastoral capacity who are not a minister, elder or member of the PC (USA) will be required, prior to admission into a relationship with a member congregation of the Presbytery, to sign attachment A & B thereby agreeing to abide by the standards of conduct set forth in this document and agree to a criminal background check.

Should charges be made against a ***minister teaching elder*** or lay leader serving a member church of the Presbytery of Yellowstone who is not a member of the PC (USA), the Presbytery will immediately contact the appropriate governing body of that person's denomination and work with that governing body concerning investigation and resolution of the alleged incident. If the accused ***minister teaching elder*** or lay leader does not have a denominational affiliation, he/she will be required to sign attachments A & B thereby agreeing to abide by the standards of conduct set forth in this document and, should charges be made against them, to accept the decision regarding their ministry within the member congregation made by the Presbytery's Permanent Judicial Committee, investigative committee or other entity of the Presbytery concerning the allegation of sexual misconduct.

D. DEFINITIONS

For purposes of this policy and in keeping with the laws of the State of Montana, the following definitions apply:

ACCUSED: The person against whom an accusation of sexual misconduct, including sexual assault, child sexual assault, or sexual intercourse without consent is made.

ACCUSER: The person claiming knowledge of sexual misconduct by a person covered under this policy. The accuser may or may not be the victim of the alleged sexual misconduct.

CHILD: Any person under 18 years of age.

SEXUAL ASSAULT: Subjecting another person to any sexual contact without consent of the other person.

SEXUAL CONTACT: Touching the sexual or other intimate parts of another person, directly or through clothing, with the purpose of causing bodily injury to another, humiliating, harassing or degrading another, and/or arousing or gratifying the sexual response or desire of either party.

SEXUAL HARASSMENT: Unwelcome sexual advances, requests for sexual favors, tormenting based on gender or sexual orientation, and other verbal, visual or physical contact of a sexual nature. Sexual harassment occurs when

- submission to such contact is made either explicitly or implicitly a term or condition of a person's employment or participation in *Yellowstone Presbytery* Presbytery of Yellowstone activities;
- submission to or rejection of such conduct by a person is the basis for employment decisions or other *Yellowstone Presbytery* Presbytery of Yellowstone-related decisions affecting the individual;
- such conduct has the purpose or effect of interfering with an individual's work performance or participation in *Yellowstone Presbytery* Presbytery of Yellowstone activities by creating an intimidating, hostile, or offensive environment;
- such conduct, regardless of intention, is objected to by the person at whom it is directed;
- such conduct includes, but is not limited to unsolicited and/or unwelcome contact such as the following:
 - § written contact, such as sexually suggestive or obscene letters, notes, emails, text messages or invitations
 - § verbal contact such as sexually suggestive or obscene comments, threats, slurs, epithets, jokes or sexual propositions;
 - § physical contact such as intentional touching, pinching, brushing against another's body, impeding or blocking movement, assault or sexual coercion; or
 - § visual contact such as leering or staring at another's body, gesturing, displaying sexually suggestive objects, pictures, cartoons, posters or magazines.

SEXUAL INTERCOURSE WITHOUT CONSENT: Penetration, however slight, of the vulva, anus or mouth of one person by a penis, other body member, or foreign instrument or object manipulated by another person with the purpose of causing bodily injury to another, humiliating harassing or degrading another, and/or arousing or gratifying the sexual response or desire of either party.

SEXUAL MISCONDUCT: Any sexual **abuse** of children or adults and/or any sexual harassment.

STAFF MEMBER or EMPLOYEE: A person employed by or contracted with *Yellowstone Presbytery*. **Presbytery of Yellowstone**

VICTIM: Any person, child or adult, who has allegedly suffered an act of sexual misconduct.

VOLUNTEER: A person who provides services for the Presbytery of Yellowstone and/or its entities and receives no benefit or remuneration. Volunteers include, but are not limited to, persons elected or appointed to serve on boards, committees, councils, **cabinets**, or commissions and persons who serve in leadership positions such as camp counselors or workshop leaders or in other ways represent *Yellowstone Presbytery* **Presbytery of Yellowstone**.

WITHOUT CONSENT: A person is deemed incapable of consent for any one or more of the following reasons:

- Incapacity or mental defection;
- Physical helplessness;
- Is overcome by deception, coercion or surprise;
- Is less than 18 years of age;
- Is incarcerated in an adult or juvenile correctional, detention, or treatment facility and the accused is an employee, contractor, or volunteer of the facility and has supervisory or disciplinary authority over the victim and/or is providing treatment to the victim.

E. **POLICY ON SEXUAL MISCONDUCT**

1. Sexual misconduct is never permissible. It is a violation of the principles set forth in Scripture as well as of ministerial, pastoral, and professional relationships. Sexual misconduct by a **minister**, **teaching elder**, commissioned ruling elder or ruling elder violates the ordination vows of the Presbyterian Church (USA).

2. **Clergy**, **Teaching elders**, commissioned ruling elders, Christian educators, Presbytery staff and others serving in pastoral service received by the Presbytery of Yellowstone are required within one year of reception to attend a seminar on issues of sexual misconduct offered by the Presbytery of Yellowstone or another source satisfactory to the presbytery.

Thereafter, every three years all **clergy teaching elders**, commissioned ruling elders, Christian educators, **inquirers/candidates**, Presbytery staff and others serving in pastoral service in the Presbytery shall attend a seminar offered by the Presbytery or another source satisfactory to the Presbytery concerning sexual misconduct. Failure to attend such a seminar will result in the church professional being placed on unpaid administrative leave and excluded from the exercise of ministry until such time as the seminar is attended. Such a leave shall be automatic, requiring no further action by the Presbytery of Yellowstone.

3. Whereas this policy addresses sexual misconduct by **clergy teaching elders**, commissioned ruling elders, Christian educators, Presbytery staff and others serving in pastoral service in the Presbytery and volunteers representing the Presbytery of Yellowstone, each congregation is responsible for developing a policy for Church professionals, officers, members and non-member employees and volunteers which is consistent with this document. It is incumbent on each Presbytery of Yellowstone entity to insure compliance with its policy.

F. PREVENTION

1. All employees of The Presbytery of Yellowstone are required to sign a written acknowledgment (see Attachment “A”) indicating that they have received a copy of this Sexual Misconduct Policy. Such acknowledgment will be kept in the person’s personnel file. It is the responsibility of the Leadership Cabinet to secure this acknowledgment from the Co-General Presbyters. It is the responsibility of the Co-General Presbyters to secure this acknowledgment from all other employees.
2. All persons ordained as ministers of Word and Sacrament (**teaching elders**) being offered employment by the Presbytery of Yellowstone shall complete the Personal Information Form currently being distributed by the Call Referral Services of the PC (USA), including Part IV, Sexual Misconduct Information, or its successor form.
3. The Personnel Committee of the Presbytery is responsible for contacting references for prospective employees and conducting criminal background checks for all new employees of the Presbytery. The Committee on Ministry of the Presbytery shall conduct criminal background checks for all ***ministers teaching elders*** seeking membership in the Presbytery and all commissioned ruling elders, non-Presbyterian clergy or other lay persons in pastoral service in a member congregation. The Camp Committee shall require the presence of two adults/counselors who are not related (to the children/youth) for all Presbytery-sponsored activities involving children/youth and shall conduct a criminal background check on all volunteers and camp or youth retreat staff who will have contact with children/youth. **The Committee for Preparation for Ministry shall conduct background checks on all inquirers and candidates.**
4. The Presbytery of Yellowstone, including all its committees, councils, **cabinets** and other entities will adhere to this policy, including its standards, procedures, and practices. Commissioners to Presbytery shall consider themselves bound by the standards for conduct of this policy.
5. This policy shall be distributed to all employees, staff, volunteers, including commissioners and sessions of the Presbytery of Yellowstone. The policy shall be made available to all persons who accuse others of misconduct as well as those accused of misconduct.

G. LEADERSHIP CABINET RESPONSIBILITY

1. The Leadership Cabinet will assist and guide the Presbytery office and staff in responding to allegations of sexual abuse. The Leadership Cabinet will not have the responsibility of dealing directly with needs of the persons and groups affected by such allegations. Rather it shall coordinate the Presbytery’s response to such allegations.
2. Whenever an allegation of sexual ***abuse misconduct*** is received by any ***council Cabinet*** member, Presbytery of Yellowstone Officer, or staff of the Presbytery of Yellowstone, that person shall contact the Moderator of the Leadership Cabinet.

3. The role of the Leadership Cabinet in response to allegations of sexual misconduct shall be to consult with appropriate staff and officers of the Presbytery of Yellowstone concerning appropriate ways to meet the needs that arise in the context of a sexual misconduct case and who is responsible for each task.
4. If allegations are made against any employee other than the Co-General Presbyters, one of the Co-General Presbyters, in consultation with the Moderator of the Leadership Cabinet, shall follow this policy and the employment policy of the Presbytery of Yellowstone in determining appropriate action, including administrative leave for the accuser or the accused.
5. If allegations are made against one of the Co-General Presbyters, the Leadership Cabinet shall seek the assistance of a presbytery executive from another presbytery within the Synod of the Rocky Mountains in fulfilling the Leadership Cabinet's responsibility.
6. If allegations are made against a Presbytery of Yellowstone commissioner or member of any committee, **council, cabinet,** appropriate staff or officers, in consultation with the Leadership Cabinet, will act to meet the needs that arise in the context of the allegation.
7. The Presbytery of Yellowstone will, in all cases, cooperate with the governing bodies having disciplinary jurisdiction over church members and ***clergy teaching elders.***
8. The Presbytery of Yellowstone will comply with applicable mandatory reporting laws and will cooperate with civil authorities in cases where criminal charges are being considered, subject to the provisions of the Book of Order on confidentiality.
9. The Presbytery of Yellowstone shall offer a seminar at least once every three years to all members and commissioners concerning sexual misconduct and the presbytery's sexual misconduct policy.
10. The Leadership Cabinet through the Camp Committee shall oversee the distribution of this policy and signing of attachments A & B by camp employees and volunteers.

H. TASKS TO BE ADDRESSED BY THE PRESBYTERY

1. Required reporting
 - a. To insurance carriers
 - b. To appropriate local, state, or federal authorities if the allegations involve the **abuse** of a minor child or other criminal behavior.
2. Contact with the accuser and/or alleged victims and family, within the limits of the Rules of Discipline
 - a. Meeting their needs (i.e. counseling, advocacy)
 - b. Interviews in relation to the investigation
3. Contact with the accused and family
 - a. Meeting his/her needs (i.e. counseling, advocacy)
 - b. Interviews in relation to the investigation

4. Contact with the session
Based upon need-to-know decisions.
5. Contact with others affected
This may include other persons in a presbytery or an agency.

I. DISCIPLINARY PROCESS

All allegations of sexual misconduct will be investigated through the appropriate process. In cases of members under the jurisdiction of a Presbytery, judicial process as provided in the Rules of Discipline will be followed. In cases involving employees, the provisions of the personnel policy will be followed. For employees who are members of a Presbytery, both personnel policy provisions and disciplinary process will apply.

Judicial Process is governed by the appropriate chapters of the Rules of Discipline.

Administrative Process is governed by the Personnel Manual of the Presbytery.

J. AVAILABILITY OF POLICY AND PROCEDURES

1. All Church professionals shall be given copies of the policy and required to sign an acknowledgment of receipt. Such a signature indicates the church professional's agreement to abide by the terms of the Sexual Misconduct Policy of Yellowstone Presbytery.
2. This document shall be available to all church members and to the public.
3. Yellowstone Presbytery employees shall receive this document as a supplement to the personnel policies.
4. This policy shall be sent to every clerk of session annually.

Drafted 02.09.12

First Presbytery Reading 05.15.12

Amended Policy Approved by Personnel Committee 10.25.12

The Presbytery of Yellowstone
Sexual Misconduct Policy
Attachment A

I, as a condition of employment or condition of laboring within the bounds of the Presbytery of Yellowstone or as a volunteer of The Presbytery, acknowledge receipt of a copy of the Sexual Misconduct Policy of the Presbytery of Yellowstone (the Presbytery).

I understand that I am bound, during the time of my service as a member of the staff, an employee, **clergy teaching elder, commissioned ruling elder**, laboring within the bounds, **inquirer or candidate** or volunteer of the Presbytery by the principles, definitions, and boundaries on behavior expressed in the policy. A copy of the policy, along with this signature page will be kept in my personnel file.

I understand that any alleged violation of the policy on my part will be addressed and investigated according to the requirements of the policy, and any violation, if proven, will result in appropriate disciplinary action, as provided for in the Personnel Policy of the Presbytery and/or the Rules of Discipline of the *Constitution of the Presbyterian Church (U.S.A.)* or *appropriate action by another denomination and/or civil authorities*.

_____ (signature)

_____ (name, printed)

_____ (date)

I have provided the above **employee person** with a copy of the policy and witnessed his/her signature.

_____ (signature)

_____ (name and title, printed)

_____ (date)

[The policy was adopted by the Presbytery of Yellowstone 00/00/0000. See Presbytery of Yellowstone Minutes.]

The Presbytery of Yellowstone
Sexual Misconduct Policy
Attachment B

Do you consent to a criminal background check being conducted as a condition of your being offered a position with or serving within the boundaries of the Presbytery of Yellowstone? Your SS # will be required.

_____ Yes _____ No If no, you will not be offered employment or be allowed to serve within the boundaries of the Presbytery of Yellowstone

Have you ever been terminated from employment because of allegations of or proven sexual misconduct, including sexual harassment?

_____ No _____ Yes If yes, please state the relevant details:

Have you ever resigned from a position to avoid disciplinary action or criminal charges?

_____ No _____ Yes If yes, please state the relevant details:

Have you ever been found guilty in a church disciplinary case or a criminal case of sexual misconduct, including sexual harassment?

_____ No _____ Yes If yes, please state the relevant details.

I certify that I have answered the above questions truthfully and completely.

_____ (Signature)

_____ (Name, printed)

_____ (Date)

This signed Questionnaire will be retained in the employee's or *clergy persons* **teaching elder's** personnel file. A copy will be given to him/her to retain in personal records.