

## **Foothills Presbytery Sexual Ethics and Misconduct Policy**

### Policy Statement

The Presbyterian Church (USA) has been given a public and spiritual trust. It is the policy of the Foothills Presbytery (“Foothills”) that all Presbytery Professionals and all Presbytery Volunteers (as such terms are defined herein) are to maintain the integrity of ministerial, employment, professional and ecclesiastical relationships at all times. Sexual misconduct is a violation of Scripture and human dignity and is never permissible.

This policy has two purposes: to raise awareness of the responsibility to ethically prevent any and all sexual misconduct, and to provide for an appropriate response when misconduct is alleged. This policy offers guidelines to ensure appropriate intervention in any alleged incidence of sexual misconduct, offers care to all parties involved, and provides information to help prevent further instances of abuse. Foothills is also aware of the needs of survivors, alleged offenders, congregations, and those in ecclesiastical employment. Foothills’ goal is a policy that will work for justice, healing and restoration for all persons.

Because work in the name of the Church implies a covenant relationship, a privilege, and a trust, it is the responsibility of all persons covered by this policy to observe appropriate boundaries in all Church relationships.

Our commitment is to model the example of Jesus Christ, and to be rooted in the love of Christ in all relationships.

### A. Applicability

The requirements of this policy apply to:

1. All Ministers of Word and Sacrament who are members of Foothills Presbytery.
  2. Certified Christian Educators when performing functions under the jurisdiction of the Foothills Presbytery.
  3. Commissioned Ruling Elders within Foothills when performing functions specified in their commissions.
  4. Inquirers/Candidates who are under the care of the Committee on Preparation for Ministry of Foothills.
  5. All others employed by Foothills, including both ordained and lay personnel.
  6. All volunteers, including both ordained and lay personnel, when they are working on Foothills councils, committees, commissions, or other formally established activities of Foothills.
-

## B. Definitions

Sexual Misconduct is the comprehensive term used to cover all unacceptable sexual behavior, as defined below:

1. **Sexual abuse:** any offense involving sexual conduct in relation to
  - a. Any person under the age of eighteen years or anyone without capacity to consent; or
  - b. Any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position. (*Book of Order*, D-10.401 c.)
2. **Sexual harassment:** unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature.
3. **Rape or sexual contact** by force, threat, or intimidation.
4. **Misuse of technology** that results in sexual harassment or abuse of another person, such as texting or emailing suggestive messages and images to another person.
5. **Ministerial Sexual Malfeasance:** sexual activities within a professional ministerial relationship.

Other definitions:

1. **Accused:** The person against whom an accusation of sexual misconduct is being made.
2. **Accuser:** A person alleging sexual misconduct covered by this policy. The accuser may or may not be the alleged victim of sexual misconduct.
3. **Adultery:** Voluntary sexual intercourse between a married person and a person who is not his or her spouse.
4. **Allegation:** A report of alleged misconduct. The initial allegation may be verbal but must be followed with a written statement, whether by the accuser or by the person to whom an oral allegation is made. If a written statement is not made, the investigation cannot move forward.
5. **Alleged victim:** The person who is the subject of alleged misconduct or abuse as defined in this policy.
6. **Professional relationships** include, but are not limited to, counselor–client; lay employee–church member; minister–church member; Presbytery executive–committee member; or supervisor/manager–employee/volunteer.
7. **Breach of Professional Responsibility** occurs when a person in a position of trust engages in a sexual act, has sexual contact, or creates a sexualized environment with any person to whom he or she owes a professional responsibility. A breach of professional responsibility includes, without limitation,

consensual sexual relationships between ministers and laity with whom they have a professional relationship.

8. **Required Reporter:** A person who has a legal obligation to report information regarding harm, or risk of harm, involving abuse or misconduct involving children, youth, or vulnerable adults under applicable state law or the PC(USA) Book of Order.
  - a. Under South Carolina law, certain people who receive information in their professional capacity giving them reason to believe that a child has been or may be abused or neglected, must report to the county department of social services or to a law enforcement agency in the county where the child resides or is found. A person who reports such child abuse or neglect to a supervisor or a person in charge of an institution, school, facility or agency is not relieved of their duty to report to social services or law enforcement. People covered by this requirement include members of the clergy, religious healers, clerical or non-clerical religious counselors who charge for their services, and childcare workers in a childcare center. A clergy member must report in accordance with this law except when the information is received from the alleged perpetrator of the abuse or neglect during a communication that is protected by the clergy and penitent privilege as provided by South Carolina law (Section 19-11-90). Nothing in this policy is intended to modify or override the requirements of South Carolina law. (The detailed requirements for mandatory reporting are set out in South Carolina Code Ann. Section 63-7-310.)
  - b. PC(USA) **Book of Order** G-4.0301: **Trust and Confidentiality:** In the exercise of pastoral care, ministers of the Word and Sacrament and ruling elders who have been commissioned by a presbytery to limited pastoral service (G-2.10), shall 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 minister of Word and Sacrament or a commissioned pastor (also known as commissioned ruling elder) may, but cannot be compelled to, reveal confidential information.

A minister of the Word of Sacrament or commissioned pastor (also known as commissioned ruling elder) may reveal confidential information when she or he reasonably believes that there is a risk of imminent bodily harm to any person.

***Book of Order*** reference G-4.0302: **Mandatory Reporting:**

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 ***Book of Order*** 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.

9. **Mutual Consent:** the voluntary agreement between two parties to engage in an act together.

In a sexual relationship, mutual consent is **not possible** when one of the parties is not of the age of consent or does not have the mental capacity to consent regardless of age. The applicable age of consent is determined by the applicable state law. Typically, this will be SC law, but if a sexual relationship occurs during Presbytery sponsored activities that occur in another state, that state's law could be applicable to determine the age of consent that is relevant. Any formal determination of the relevant age of consent by authorized state or local officials will take priority. Note: In SC, the age of consent is sixteen when one of the parties is over the age of eighteen; and the age of consent is fourteen when both parties are under the age of sixteen.

- a. Mutual consent is **not possible** when one party is a minister or a professional lay leader in a pastoral, counseling, or leadership position within the church, related organization, entity, or other sponsored activity in which the other party is a parishioner, member, employee, counselee or participant.
- b. If a complaint of sexual misconduct under this policy arises from a relationship, the burden of proof will be on the minister or professional lay leader to demonstrate mutual consent in that situation.

10. **Pornography** is defined by the General Assembly (1988) of the Presbyterian Church (USA) as follows:
- a. Pornography includes any sexually explicit materials (books, magazines, movies, videos, musical lyrics, TV shows, telephone services, internet sites, live sex acts) produced for the purpose of sexual arousal by eroticizing violence, power, humiliation, abuse, dominance, degradation, or mistreatment of any person, male or female, and usually produced for monetary profit.
  - b. Any sexually explicit material that depicts children is pornography.
11. **Presbytery Professional:** All Ministers of Word and Sacrament who are members of Foothills Presbytery; Certified Christian Educators when performing functions under the jurisdiction of the Foothills Presbytery; Commissioned Ruling Elders within Foothills when performing functions specified in their commissions; Inquirers/Candidates who are under the care of the Committee on Preparation for Ministry of Foothills; and all others employed by Foothills, including both ordained and lay personnel.
12. **Presbytery Volunteer:** All volunteers, including both ordained and lay personnel, when they are working on Foothills councils, committees, commissions, or other formally established activities of Foothills.
13. **Sexual Ethics Team:** The six-member team nominated by the Nominating Committee of Foothills Presbytery and elected by the entire Presbytery to serve as the inquiry committee for the presbytery. A full description of this team, its makeup and function are found in Foothills Presbytery's Manual of Operations.
14. **Vulnerable Adult:** A person above the age of consent (see definition of Mutual Consent, above) who is unable to take care of him/herself, or unable to protect him/herself against significant harm, or exploitation due to disability, age or illness.

### C. Ethics and Prevention

Leadership within the Christian community, whether exercised by ministers or lay people, is a sacred trust to be exercised with faithfulness and love. Sexual misconduct is a violation of this trust, betraying its alleged victim, damaging the abuser, and threatening the sanctity, the credibility, and the sanctuary of the church itself.

Leaders must conduct themselves in a manner which nurtures and protects the vulnerable. There is inherent power associated with a position of leadership; therefore, leaders are responsible for maintaining appropriate boundaries. Consequently, we cannot overlook sexual misconduct, or an abuse of power and trust, in sexual malfeasance.

The following items are required activities to prevent any ethical or sexual misconduct.

1. All Presbytery professionals and Presbytery Volunteers shall receive a copy of this policy and sign a written acknowledgment of receipt to be kept on file in the Foothills Presbytery office. (Appendix A)
2. All Ministers of Word and Sacrament, Commissioned Ruling Elders, and Certified Christian Educators seeking membership, and the rights therein, in Foothills Presbytery are required to sign a release for a complete background check.
3. Reference Checks
  - a) Search Committees, Presbytery staff and Committee on Ministry will conduct reference checks from a candidate's previous employments/church relationships and presbyteries on all final candidates for Ministers of the Word and Sacrament positions, for Commissioned Ruling Elders, Certified Christian Educators and for all employees.
  - b) The Presbytery will arrange for criminal background checks for Ministers of the Word and Sacrament, Commissioned Ruling Elders, Certified Christian Educators, and Inquirers and Candidates under care of Committee on Preparation for Ministry.
4. Anyone working with Children, Youth and/or Vulnerable Adults must adhere to the specifics included in the Child, Youth and Vulnerable Adult Protection Policy approved by Foothills Presbytery (May 2018).
5. All Presbytery professionals and new Presbytery Volunteers are required to attend a Boundaries Training workshop and/or a Sexual Ethics Workshop either offered by Foothills Presbytery or another training source that is satisfactory to the Committee on Ministry.

Ministers of the Word and Sacrament, Commissioned Ruling Elders, or Certified Christian Educators shall report their attendance at the required workshop to the chair of the Committee on Ministry and/or Stated Clerk.

Employees of Foothills shall report their attendance at the required workshop to the Presbytery Leader/Stated Clerk. The Presbytery Leader/Stated Clerk shall report his or her attendance to the chair of the Personnel Committee.

Presbytery Volunteers shall report their attendance at the required workshop to the chair of the committee or council on which such individual serves.

6. If a Presbytery Professional fails to attend the required workshop within the required time period, the COM may place the person on unpaid administrative leave and exclude him/her from the exercise of ministry until such time as the required workshop is completed. He/She may be subject to other adverse action as well.

#### D. Reporting

1. Any Presbytery Professional or Presbytery Volunteer who has a reasonable belief that an incident of sexual misconduct has occurred shall make a written report to the Stated Clerk in a timely manner. The written report shall consist of the names of the accused, accuser, and alleged victim, together with a brief description of the alleged sexual misconduct along with any available supporting information. Such reporting individual shall not undertake an inquiry or question the persons involved. The report will be marked and treated as confidential.

If the Stated Clerk is a party to the incident, such written report shall be rendered to the Chair of the Coordinating Council. If the Chair of the Coordinating Council is also a party to the incident, the written report shall be provided to the Stated Clerk of the Synod of South Atlantic.

#### Rules for the Reporter

Under state law and per PCUSA, it is mandatory to report child abuse to the appropriate secular authorities.

- a) Do not personally confront the accused violator of the policy.
  - b) Maintain the confidentiality of the accused, the accuser, and the alleged victim.
  - c) Do not contact parents or legal guardians of those involved. This responsibility is handled by law enforcement or other social services authorities.
  - d) Do not investigate the accusation. Professional/law enforcement officials will fulfill this responsibility.
2. The Stated Clerk shall inform the accused and accuser they should not participate in Presbytery meetings or Presbytery-sponsored events until the investigation is complete. This policy does not prohibit attendance at regular worship services.
  3. As per our Child, Youth and Vulnerable Adult Protection Policy, when child sexual abuse is alleged, the secular authorities must, by law, be contacted immediately to take control of the investigation and disposition of charges against the accused. All persons shall cooperate with the secular authorities in any secular investigation of sexual misconduct.

#### E. Responding

The appropriate council or entity response will vary according to the relationship of the Presbytery with the person who is accused of sexual misconduct and depending on who the alleged victim is. Church members and officers are subject to inquiry and discipline under the **Book of Order**. Non-church member employees and volunteers are subject to oversight and correction by the Coordinating Council or by the Presbytery entity that employs them.

Confidentiality shall be maintained at all times in order to protect all parties involved. Confidentiality regarding any discipline process resulting from an allegation of sexual misconduct shall be maintained.

#### F. Rehabilitation

The Presbytery should demonstrate a Christian approach, treating all parties in a fair and equitable manner. The alleged victim may require spiritual and professional assistance as a result of sexual misconduct. The Presbytery should offer to help arrange for such support should this be desired. The Presbytery should also be aware of the impact this event has on the family of the alleged victim should he/she be a staff member and recommend resources to support these needs.

Whether the allegations about the Accused are eventually found to be true or not, the Accused deserves to be treated with Christian kindness and respect. Seeking spiritual support or professional counseling may be recommended. Staff members should not be engaged in personal counseling because of their potential involvement in the disciplinary process. If an allegation is not confirmed as a result of the investigation, it is important that this decision be disseminated as soon as possible to the appropriate persons.

If a case of sexual misconduct becomes a matter of public knowledge within the workplace, appropriate meetings with individuals, small groups, or with the entire staff shall be held. Such meetings should provide information about sexual misconduct in general, Presbyterian polity and our judicial process, and how those who may have been victimized may be heard and supported. Such meetings are particularly important where there is an allegation of sexual misconduct against a minister in a call or temporary position to allow for pastoral support within congregations.

#### G. Presbytery or Entity Record Keeping

The Presbytery or entity shall 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 presbytery or entity may share the contents of inquiry reports with other presbyteries or entities of the PC(USA) when necessary. The Presbytery



Leader/Stated Clerk or director of the entity will maintain the records while the investigation is in process. When the investigation is completed, the records are stored in a secure location.

#### H. Declarations

1. This policy, in its entirety, is to be revised and applied under the primary supervision of Foothills Presbytery's Coordinating Council and Sexual Ethics Team (SET).
2. Every three (3) years, the Presbytery Leader/Stated Clerk will assure a committee of COM will review this policy and suggest any revisions which seem prudent or necessary.
3. Coordinating Council of Foothills Presbytery has the responsibility:
  - a) To receive and act upon recommendations for changes received from the Sexual Ethics Committee.
  - b) To review the Policy as a whole to ensure cohesion and the consistent use of this Policy across Foothills Presbytery.
  - c) To take any changes approved by the Coordinating Council of Foothills Presbytery to the whole Presbytery for action so the Policy may be amended by Presbytery:
    - i. After the adoption of the original Policy, this Policy may be revised at any Foothills Presbytery Stated Presbytery Meeting as long as:
      - a. Suggested revisions come from COM and/or SET and have been discussed and voted on by those bodies.
      - b. The suggested revisions passed on by those entities are made available to the entire Coordinating Council of Foothills Presbytery at least three days prior to the meeting when suggested revisions are to be considered, and the proposed revisions are approved by a majority of the Coordinating Council of Foothills Presbytery.
      - c. The suggested revisions, thus approved by Coordinating Council of Foothills Presbytery, are listed on the Agenda of a Stated Meeting of Foothills Presbytery and the text of the revisions are made available to voting members of Foothills Presbytery at least three days prior to the meeting.
      - d. After these requirements are met, revisions may be made by a majority vote of Foothills Presbytery at that Stated Meeting and will become official upon approval.

- d) To distribute copies of this policy to all Presbytery Professionals and Presbytery Volunteers on an annual basis and to ensure that training and education beyond that required by this policy is carried out as it seems appropriate and necessary.

Approved by Committee on Ministry April 2022

Approved by Coordinating Council April 2022

Approved by Presbytery May 21, 2022

**Foothills Presbytery**  
**Sexual Ethics and Misconduct Policy**  
**APPENDIX A**

**ACKNOWLEDGMENT**

The Foothills Presbytery has adopted a "Sexual Ethics and Misconduct Policy" ("Policy") which explicitly prohibits misconduct of a sexual nature by Presbytery Professionals and Presbytery Volunteers, as such terms are defined in the policy. This policy of the Foothills Presbytery applies to all as defined in Section A, Applicability. It is essential that all who are subject to the policy and its procedures read and understand the policy, acknowledge that they have done so, and formally consent to being bound by the Presbytery's Policy and any discipline administered in accordance with the Policy. Please complete the form below and return to the Foothills Presbytery office at the address listed below.

Please initial as appropriate:

\_\_\_\_\_ I have received a copy of the "Sexual Ethics and Misconduct Policy," as adopted by the Foothills Presbytery in 2022. **I have read this policy and I understand it.** I acknowledge that the policy and procedures apply to me.

\_\_\_\_\_ I certify that no civil, criminal or ecclesiastical complaint has been sustained or is pending against me for sexual misconduct (as defined in the Foothills Presbytery Policy) and that I have never resigned or been terminated from a position for reasons related to sexual misconduct.

\_\_\_\_\_ I am unable to make the above certification. I offer instead a description of the complaint, termination, or the outcome of the situation with explanatory comments. (See attached.)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

Return via mail or email to:

Foothills Presbytery  
2242 Woodruff Rd  
Simpsonville SC 29681  
Email: lwhite@foothillspresbytery.org