

SEXUAL MISCONDUCT POLICY

Sexual Misconduct Policy of the First Presbyterian Church of Cheyenne, WY

Adopted by the Session on this 19th day of December 2011.

I. Introduction:

We, the First Presbyterian Church of Cheyenne, WY, 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.

The purposes of this Sexual Misconduct Policy (“Policy”) are:

1. To prevent and eliminate sexual abuse within the First Presbyterian Church of Cheyenne, WY.
2. To safeguard the church's members, children, volunteers and staff from abuse through any form of sexual misconduct or harassment.
3. 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.
4. To report suspected sexual misconduct and comply immediately and fully with applicable Wyoming Statutes.
5. To train church personnel and volunteers to properly prevent and identify sexual misconduct, to properly act when a sexual misconduct reported and to carry out our sexual misconduct policies.
6. To promote proper healing of all persons where sexual misconduct has occurred.

II. Definitions:

Sexual misconduct: is a comprehensive term used in this Policy which means acts including, but not limited to: inappropriate sexual conduct, sexual contact, rape, sexual malfeasance, sexual harassment and sexual abuse and is further defined as:

1. Sexual abuse is any contact or interaction with a child under the age of 18, or with an adult who lacks mental capacity or is physically incapacitated, when that person is being used for the sexual stimulation of another person. The behavior may or may not involve touching. Sexual behavior between an adult and a minor is always considered sexual abuse, whether or not there is perceived consent.
2. *Inappropriate sexual conduct* is language, visual contact,

touching or other behavior judged by a person to be injurious to his or her physical or emotional health. It involves crossing a reasonable boundary the allegedly injured person was attempting to set.

3. *Sexual abuse of another person* is any offense involving sexual conduct with any person when the conduct includes force, threat, coercion, intimidation, or misuse of office or position (D-10.0401 a).

4. *Rape* is a genital, oral or anal contact by force, threat, intimidation, or coercion.

5. *Sexual malfeasance* is sexual contact within a ministerial or professional relationship (e.g. minister with parishioner, counselor with a client). It includes sexual advances, requests for sexual favors, behavior of a sexual nature, and romantic relationships whether or not there is consent.

6. *Sexual harassment* is a sexual advance, request for sexual favors, or other verbal, visual or physical conduct of a sexual nature that is unwelcome and is sufficiently severe or pervasive to make it difficult to work or serve as a volunteer, employee or employer or under certain conditions specified by law.

7. *Presumed consent* is the assertion that a particular act is between consenting adults. Presumed consent does not apply to relationships where there is a disparity of power, such as those between a minister and a parishioner.

8. Sexual misconduct, harassment and abuse includes, but is not limited to the definitions provided in this section. Certain other acts, words etc. may also be considered to be sexual misconduct, within discretion of the Personnel Ministry and under the laws of the State of Wyoming.

Electronic Sexual Misconduct:

This Policy also applies to use of the telephone, internet, electronic means, text or picture messaging and/or any other means of communication as well as to in-person communication, including, but not limited to body language or gestures.

III. Prevention:

REQUIRED DISTRIBUTION AND UNDERSTANDING OF POLICY

This Policy shall be distributed to all ministers, employees, volunteers, ministries, committees, and program groups of the First Presbyterian Church. The Policy shall be made available to all persons who accuse others of misconduct as well as those accused of misconduct.

Required Signed Receipt of Policy:

All ministers, officers, volunteers and employees of the First Presbyterian Church of Cheyenne, WY are required to sign a written acknowledgment (**see Attachment "A"**) indicating that they have received copies of this Sexual Misconduct Policy adopted by the Session and have understood its contents.

a. Such acknowledgment will be kept in the person's personnel file to be maintained by the Personnel Ministry. All ministers, officers, volunteers and employees will receive a new copy each year from the Personnel Ministry.

b. Should this Sexual Misconduct Policy materially change, each minister, officer, volunteer and employee will be notified of such changes and receive an updated copy from the Personnel Ministry as soon as it is reasonably available in print.

REQUIRED REFERENCES AND BACKGROUND CHECKS

All ministers, officers, volunteers and employees, as well as Ministers of the Word and Sacrament and other pastors are *required* to complete a questionnaire and submit references and submit to a background check provided by the Personnel Ministry prior to employment or assignment.

a. References and background checks must be conducted on ministers, officers, employees and volunteers prior to hiring and prior to the date when they begin serving within the presbytery

b. The Session of First Presbyterian Church is responsible for ensuring that the various staff search committees perform proper reference checks for prospective ministers, and employees. The Session of First Presbyterian Church is also responsible for ensuring that the Personnel Ministry perform proper reference checks for any volunteers or other personnel.

c. Failure to submit to such background checks will result in immediate dismissal from any position, including volunteers.

REQUIRED TRAINING-

The First Presbyterian Church of Cheyenne WY, through its Personnel Ministry, will annually provide a mandatory sexual misconduct training workshop for Personnel Ministry members and its committees, ministries and all church staff and volunteers. All such participants are required to attend a mandatory initial training and then a refresher course every year.

a. The Personnel Ministry will offer this course at least 3 or more times a year.

b. Failure to attend such workshop will result in immediate dismissal.

c. Failure to adhere to the guidelines and procedures in such training will result in immediate dismissal and, if applicable, prosecution to the fullest extent of Wyoming Law.

REQUIRED REPORTING OF VIOLATIONS

The First Presbyterian Church of Cheyenne WY requires *immediate* reporting of any suspected sexual misconduct. Anyone witnessing the occurrence of a prohibited or questionable act or situation involving a child or youth is *required* to follow the steps outlined below:

WHAT TO DO IF YOU SUSPECT THAT A VIOLATION OF THIS POLICY HAS OCCURRED:

1. REPORT THE VIOLATION IMMEDIATELY

A prohibited act must be reported *immediately*, within one (1) hour of the awareness of such occurrence, and any unreasonable failure to do so will be considered a procedural violation of these guidelines.

-Immediately report any criminal activity and/or any suspected criminal activity to local authorities as required by law and this Policy.

-Report the incident *immediately* to the Pastor, Associate Pastor, Clerk of Session or Personnel Ministry.

2. SECURE THE SAFETY OF THE VICTIM AND SELF

If reasonable under the circumstances, act immediately to personally secure the safety of the child or youth. Do not leave the child or youth alone to report the incident. Act reasonably under the circumstances.

3. SECURE THE SAFETY OF OTHERS

Act reasonably under the circumstances to protect safety of self and others.

Do not personally confront the alleged or accused violator of the Policy.

4 COMPLETE A FULL INCIDENT REPORT

-Complete a Confidential Incident Report, as soon as possible and/or within two (2) days of the incident or suspected incident and deliver it to the Pastor, Associate Pastor, Clerk of Session or the Personnel Ministry (Appendix I).

Write a *detailed* report of the incident as soon as possible following the incident, include names and contact information for all potential witnesses.

5. COMPLY WITH THE PERSONEL MINISTRY AND LAW ENFORCEMENT

-Comply with the direction of the Personnel Ministry and all law enforcement during the investigation of sexual misconduct.

NOTE: The investigating committee is solely responsible for all public relations communications on behalf of the church.

(If a child or youth reports that a prohibited act occurred while participating in a church activity or involved church volunteers or employees at any time or place, the person initially contacted by the child or youth is required to follow these same steps.)

IV. PERSONNEL MINISTRY DUTIES

1. Required Reporting for Personnel Ministry:

The Personnel Ministry **MUST** immediately report any sexual misconduct to the following:

- a) To applicable insurance carriers
- b) To appropriate local, state, or federal authorities, if a violation of any Wyoming Law is suspected.
- c) To church counsel/attorney, if applicable.

2. Required Actions for Personnel Ministry:

The Personnel Ministry **MUST** take the following actions:

Confer with the accuser and/or alleged victims and family

- a) Interviews in relation to the investigation
- b) Addressing needs (i.e. counseling, advocacy)

Confer with the accused and family

- a) Interviews in relation to the investigation
- b) Addressing their needs (i.e. counseling, advocacy)

Any other contact at the discretion of the Personnel Ministry; including but not limited to: contact with the Session and congregation based upon need-to-know decisions, in order to help the Session and congregation survive.

3. REQUIREMENTS UNDER STATE LAW: The Personnel Ministry must act in accordance with state laws and follow all directions by authorities when investigating or handling any suspected sexual misconduct..

VI. Church Disciplinary Process:

All allegations of sexual misconduct will be investigated through the appropriate process, as required under Wyoming Law and as detailed in the *Rule of Discipline from the Book of Order* ,

Discipline of Church Members: In cases of church members under the jurisdiction of the First Presbyterian Church, judicial process as provided in the *Rules of*

Discipline from the Book of Order will be followed.

Discipline of Church Employees: In cases involving church employees, the provisions of the personnel Policy will be followed. For Ministers of the Word and Sacrament and employees of the First Presbyterian Church both personnel Policy provisions and disciplinary process will apply.

NOTE: All allegations of sexual misconduct will be reported to the appropriate authorities and the First Presbyterian Church of Cheyenne, WY will adhere to all requirements for the reporting and investigation of sexual misconduct under Wyoming law.

VII. Church Judicial Process:

When the Pastor, Associate Pastor, Clerk of Session, Personnel Ministry receives written allegations under D-10.0100, the Session moderator, in consultation with the clerk of Session, and chairperson of the Personnel Ministry shall appoint an investigating committee of three to five members (D-10.0202), which shall meet as soon as possible after its formation. The investigating committee shall conduct its investigation in accordance with D-10.0202. The investigating committee shall maintain regular contact with the person making the allegations, keeping her/him informed about the status of the investigation. The investigating committee shall not contact the person being accused without first advising the person making the allegations of the date of that contact.

II. Church Administrative Process:

Following an accusation of misconduct against a staff member, officer or volunteer of the First Presbyterian Church of Cheyenne, WY, the Personnel Ministry shall:

- 1) Consult with the accuser
- 2) Consult the accused
- 3) Consult with any witnesses
- 4) Confer during Session
 - a. determine whether administrative leave shall be required while the situation is investigated.
 - b. determine how to investigate situation
 - c. review sexual misconduct policies and appropriate discipline policies for guidance
 - d. contact authorities immediately, if a violation of Wyoming Law is suspected and authorities have not been alerted.
 - e. determine if discipline is necessary and to what extent
 - f. create a plan and timeline for reviewing situation and ensuring discipline is carried out in the proper manner.
 - g. document the Session

Administrative Leave:

A. If the person accused is a Minister of the Word and refuses to take an administrative leave and the Session and presbytery believes it imperative, the presbytery may proceed under G-11.0103o to remove the person. The (COM or other body) may also request that an administrative commission be appointed to deal with the discord caused by the alleged misconduct. The COM will maintain a list of interim or supply pastors trained in responding to congregations where abuse has occurred. The COM will also work carefully with the Session to recognize and deal with denial and anger that typically accompanies abuse allegations.

B. If the accused is a staff member of the First Presbyterian Church, and refuses to take an administrative leave, the Session of the First Presbyterian Church may proceed under the Personnel Policy of the First Presbyterian Church to remove the person.

C. If the accused is a church officer of the First Presbyterian Church, or volunteer in the First Presbyterian Church, and refuses to step aside, the Session of the First Presbyterian Church may proceed to prohibit them from taking part in any church activities and from being present on the church premises.

Attachment A

Sexual Misconduct Policy of the First Presbyterian Church of Cheyenne, WY
("Policy")

**STATEMENT OF RECEIPT, READING AND UNDERSTANDING OF THE
POLICY:**

I, _____ have received, read and
understood the **STATEMENT OF POLICY PROHIBITING SEXUAL
HARASSMENT** and the Wyoming Child Abuse and Neglect Prevention and
Reporting Kit ("Kit").

Any questions about the contents of either the Policy or Kit, have been
satisfactorily answered by the appropriate senior member of the Church.

I am of sound mind and I understand that I must abide by the Policy at all times
and must adhere to its procedures or I risk discipline.

I also understand that I am required to abide by all laws of the State of Wyoming
and all regulations of the First Presbyterian Church of Cheyenne, WY.

Signed _____ Date _____

Appendix I

FIRST PRESBYTERIAN CHURCH, CHEYENNE

Confidential Incident Report

Deliver to the Pastor or Associate Pastor or the Personnel Ministry

Date of Incident: _____ Time of Incident: _____ Place: _____

Name(s) of Child(ren): _____ Age(s): _____

Child's parent or other person responsible for the child's care: _____

Name(s) of those suspected of violating the church's guidelines: _____

Relationship of the accused to the child: _____

Describe the incident in as much **DETAIL** as possible (continue on back if necessary):

What was the child's demeanor and appearance? What, if anything, did the child say about the incident? ____

What immediate action was taken? Which authorities alerted (include badge number and case number) ____

Were there any witnesses? Does anyone else have relevant information? (names and phone numbers) ____

Printed Name of Person Reporting: _____

Signature: _____ Date: _____

Address: _____ Phone: _____

City: _____ State: _____ Zip Code: _____