

## Sexual Misconduct Policy for Redstone Presbytery

### INTRODUCTION

#### Biblical Foundations

“As God who called you is holy, be holy yourselves in all your conduct”. (I Peter 1:15)

“Not many of you should become teachers, my brothers and sisters, for you know that we who teach will be judged with greater strictness.” (James 2:15)

“Tend the flock of God, that is your charge, not under compulsion, but willingly, not for sordid gain, but eagerly. Do not lord it over those in our charge, but be examples to the flock.” (I Peter 5:2)

Scripture affirms that we are created in the image of God. The Scriptures and our own faith in Jesus Christ call us to standards of responsible conduct in all of life, including sexual behavior. The expectations of leaders within our churches and presbytery are established based upon a covenant relationship that assumes the trustworthy exercise of authority and power on behalf of those in their care. A betrayal of this trust represents an unjust use of a position of leadership, personal harm to any victims and a threat to the ministry of the Church and the integrity of the gospel. The ethical conduct of all who minister in the name of Jesus Christ is of vital importance because through these representatives an understanding of the Lord God and the good news is communicated. “Their manner of life should be demonstration of the Christian gospel in the church and in the world.” (*Book of Order* G-6.01 06a)

#### Policy Statement

It is the policy of the Presbytery of Redstone that all employees and members of the Presbytery shall maintain at all times the integrity required by the Christian tradition and their own professional relationships. All forms of sexual misconduct, as defined below, are regarded as a violation of the principles set forth in Scripture and thus are never permissible.

#### Purpose

Presbytery of Redstone has adopted this policy on sexual misconduct for the use of all pastors (Teaching Elders/Commissioned Ruling Elders), members, and other employees under its jurisdiction. The primary purpose of this policy is to make clear the presbytery’s position on sexual misconduct and to establish procedures to guide investigation and resolution where misconduct is alleged to have occurred. As a policy, this document seeks to:

- Set high standards of ethical behavior consistent with the Scriptures, the Reformed tradition, and secular law.
- Serve as a guide for the prevention of all types of sexual misconduct.
- Establish procedures for inquiry and effective response when allegations of sexual misconduct occur.
- Safeguard employees and members of the church from both sexual misconduct and false allegations.
- Protect the rights and meet the needs of the accused, the complainant, the congregation(s) involved, and the Presbytery as a whole.
- Establish a process for the enforcement of those standards that are set forth in this policy.
- Suggest alternative means by which instances of sexual misconduct may be addressed without recourse to church judicial process where these alternative means are both possible and appropriate.
- Promote, whenever possible, the reconciliation of individuals who, after due process has occurred, are deemed to have violated the terms of this policy.
- Correlate the sexual misconduct policy adopted by the General Assembly of the Presbyterian Church (U.S.A.) with the procedures outlined in the *Book of Order* and the individual structure, offices, and needs of the Presbytery of Redstone.

- Further the peace, unity, and purity of the church through justice and compassion.

### **Guiding Principles**

- Sexual misconduct is a violation of the role of teaching elders, other persons in pastoral leadership, officers, employees, and volunteers of the presbytery who are called upon to exercise integrity, sensitivity, and caring in a trust relationship. It breaks the covenant to act in the best interest of parishioners and co-workers.
- Sexual misconduct is a misuse of authority and power that breaches Christian ethical principles by misusing a trust relation to gain advantage over another for personal pleasure in an abusive, exploitative and unjust manner. Even if someone else initiates or invites sexual content in the relationship, it is the responsibility of the teaching elder, person in pastoral leadership, officer, employee or volunteer of the presbytery to maintain the appropriate role and prohibit a sexual relationship. In positions of pastoral leadership, s/he has been granted authority and power by members of the congregation in ways that there cannot be equality. Therefore, it is the responsibility of the person in pastoral leadership to establish and maintain appropriate boundaries in any relationship.
- Sexual misconduct takes advantage of the vulnerability of persons who are less powerful to act for their own welfare, including children. It is contrary to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world. It violates the mandate to protect the vulnerable from harm.
- Sexual misconduct allegations must be responded to honestly, fairly and expeditiously in order that justice, healing and reconciliation to the greatest extent possible may be pursued.

### **Definitions**

- **Accused**

The term used to represent the person against whom a claim of sexual misconduct is made. For the purposes of this policy, it is assumed that the accused is a paid or unpaid member of the staff of Redstone Presbytery, including, but not limited to, its teaching elders and others involved in pastoral leadership. Allegations against other individuals should be made to whichever body has appropriate jurisdiction. For instance, an accusation against a ruling elder who does not serve on the staff of Redstone Presbytery should be made to that ruling elder's Session.

- **Accuser/Complainant**

The term used to represent the person claiming knowledge of sexual misconduct by a person covered by this policy. The accuser may or may not be the victim of alleged sexual misconduct. A person such as a family member, friend or colleague may be the accuser as the individual making an allegation of sexual misconduct. In the case of minors, the term "complainant" may be used both of the minor and of the minor's legal guardian.

- **Administrative Leave**

Leave of absence initiated, not by an individual, but by the person or entity to whom that individual reports. For the purposes of this policy, administrative leave will be:

a) a **paid** leave of absence, if the individual placed on leave has not been

- formally charged with violating federal, state, or local law,
- judged to be guilty through a trial conducted by the policies of the Church, or
- deemed to be guilty through an admission of serious wrongdoing.

For paid leaves of absence, the individual is entitled to continue receiving all regular benefits of employment, including (for example) use of a residence.

b) an **unpaid** leave of absence in all other situations. In the case of an unpaid administrative leave, the individual is **not** entitled to regular benefits of employment, including (for example) use of a residence.

- **Child**

Any individual who is under eighteen years of age at the alleged time of the incident(s).

- **Church**

When capitalized, refers to the Presbyterian Church (U.S.A.).

- **Confidentiality**

The term indicating that all information is withheld from all except those who need to know.

- **Employee**

Any person hired or called to work for the Presbytery or for a related organization within the jurisdiction of the Presbytery and receiving salary or wages. The employee need not be a member of a congregation within the Presbytery or even of the Presbyterian Church (U.S.A.).

- **Inquiry**

The term used in the Rules of Discipline to determine whether charges should be filed based upon allegations of an offense received by a council. (Book of Order; D-10.0200)

- **Investigating Committee**

The group of people designated by the presbytery to inquire into written allegations. If charges are filed, they prosecute the case under the Rules of Discipline. (Book of Order; D-10.0200).

- **Mandated Reporter**

The term used for the person required to report any and all suspected incidents of child abuse, including child sexual abuse that comes to his/her attention. Refer to Chapter 63 of PA Code for full reporting requirements.

- **Parishioner/Congregant**

This is an individual who is a member of the congregation being served by the teaching elder or person in pastoral leadership or someone who is relating to the teaching elder as a pastor through a counseling or pastoral care relationship. For teaching elders serving in specialized ministries, a parishioner is any person receiving the benefit of the teaching elder's exercise of the office of ministry.

- **Persons Covered**

This term includes all teaching elder members of the presbytery, commissioned ruling elders, officers, employees, and volunteers of the presbytery acting on behalf of the presbytery.

- **Response**

This is the action taken by the presbytery when a report of sexual misconduct is received. It may include (1) inquiry into facts and circumstances, (2) possible disciplinary action, (3) pastoral care and intervention for victims and their families and others, and (4) pastoral care, intervention and rehabilitation for the accused and care for their families.

- **Rules of Discipline**

This term refers to the section of the Book of Order of the Presbyterian Church (U.S.A.) which outlines the procedures to follow in which the church must exercise authority over its members to guide, control and nurture.

- **Secular Law**

This term refers to the body of municipal, state and federal laws and is often referred to collectively as civil and criminal law. Prohibited behavior addressed by the policy may also result in criminal and/or civil charges filed under secular law.

## **SEXUAL MISCONDUCT**

Sexual Misconduct is a comprehensive term that includes:

- a) Sexual abuse of a minor
- b) Sexual harassment
- c) Rape
- d) Sexual malfeasance/impropriety
- e) Inappropriate sexual conduct, language or behavior that is offensive, obscene, or suggestive, including excessive visual contact or staring, unwelcome touching or fondling, the telling of lewd jokes or stories, and the use of obscene terms.

- **Sexual abuse**

This term is used to describe any contact or interaction involving sexual conduct in relation to any person under the age of eighteen years; anyone over the age of eighteen years without the mental capacity to consent; or any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position. (Book of Order, D-10.0401).

**Sexual Abuse of a Minor** - Sexual abuse of a minor consists of *any* sexual contact between an adult and an individual under the age of eighteen. This type of abuse may be represented by, but is not limited to:

- a] sexual intercourse between an adult and an individual under the age of eighteen.
- b] any use of an individual under the age of eighteen for the sexual stimulation of oneself, another person, or the child himself or herself.
- c] any risqué jokes, innuendo, unacceptable visual contact, unwelcome casual touch, unwelcome and inappropriate hugs and kisses, and sexually suggestive pictures shared by an adult with an individual under the age of eighteen, as would be deemed inappropriate by any reasonable adult.

Discussions of sexuality that occur strictly for the purposes of education and/or counseling between an authorized teacher or counselor and an individual under the age of eighteen are not prohibited, although extreme care and common sense should be exerted in all such situations. The standard “as would be deemed appropriate or inappropriate by any reasonable adult” must always be rigorously applied in these cases.

### **Sexual Harassment**

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that occurs when: a] submission to such conduct is made either explicitly or implicitly a condition of an individual’s employment, or their continued status in the congregation or Presbytery, b] submission to or rejection of such conduct by an individual is used as the basis for decisions affecting the livelihood or welfare of such individuals, c] such conduct has the purpose or the effect of unreasonably interfering with an individual’s work performance or function in the congregation or Presbytery by creating an intimidating, hostile, or offensive environment based on the declared judgment of the affected individual. Lack of intent to harass is not in and of itself an adequate defense against an accusation of sexual harassment.

### **Sexual Malfeasance/Impropriety**

Sexual conduct occurring within a ministerial or professional relationship, such as between clergy and a member of his or her congregation, a counselor and a client, or a teacher and a student. Sexual malfeasance includes unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature. For the purposes of this policy, sexual malfeasance does not cover relationships between spouses and does not restrict church professionals from having normal, mutual, social, intimate, or marital relationships not otherwise prohibited by this policy.

## **PREVENTING SEXUAL MISCONDUCT**

1. The Presbytery should be proactive in providing educational programs and training in pastoral care that seeks to prevent sexual misconduct before it occurs. The Committee on Ministry (COM), the Committee on Preparation for Ministry (CPM), and the Permanent Judicial Commission (PJC) should each provide what it deems an adequate amount of training to its constituencies.
2. Although the groups responsible for this instruction will be given the greatest amount of autonomy in deciding the **frequency**, **manner**, and **content** of this instruction, in most cases the goals of these educational programs and training should include recognition of the:
  - a. Imbalance of power between religious leader and those in their care.
  - b. Need for appropriate boundaries to exist between those in authority and parishioners/congregants.

- c. Need for caregivers to understand that frequent pastoral calling visits, frequent phone conversations, extended time together, and physical touching, hugs, and kisses may be associated with sexual advances and are **high risk behaviors** that may be perceived as unwelcome or an infringement on the rights of others.
- d. Importance for members of clergy to have an “accountability partner” with whom they meet regularly, since their role invites trust and dependence and since they are often in a one-on-one setting with persons who respect and depend on them.
- e. Advisability for religious leaders who counsel or provide spiritual direction to observe professional cautionary measures such as:
  - i. limiting the amount of time spent with each counselee/directee.
  - ii. making sure that there are other people around sessions.
  - iii. observing a professional caution regarding physical contact with each counselee/directee.
- f. Need for religious leaders who are providing counseling to be in a supervisory relationship with a licensed psychotherapist.
- g. Importance for religious leaders who are providing spiritual direction to receive direction themselves under the guidance of a supervising spiritual director.

### **PROCEDURE FOR INVESTIGATION OF AN ALLEGATION OF SEXUAL MISCONDUCT**

1. Allegations of sexual misconduct on the part of individuals governed by this policy, including but not limited to the pastors (Teaching Elders/Commissioned Ruling Elders), and employees of the Presbytery, are to be made in writing to the Associate Stated Clerk for Judicial Matters:
  - a. Allegations involving a possible violation of federal, state, or local law: If so, the Associate Stated Clerk for Judicial Matters may refer the allegation to the appropriate secular authorities and the process outlined in this document may be suspended until the civil and/or criminal process has reached its conclusion.
  - b. Allegations involving a suspected abuse, sexual or otherwise of a minor: If so, Associate Stated Clerk for Judicial Matters *must* refer the allegation to the appropriate secular authorities, as a mandated reporter under state law, and the process outlined in this document may be suspended until the civil and/or criminal process has reached its conclusion.
  - c. Should an individual wish to make an allegation of sexual misconduct on the part of the Stated Clerk, it shall be submitted in writing to the Executive Presbyter.
  - d. In such cases, the Executive Presbyter (or his or her designee) would then assume all duties otherwise assigned to the Associate Stated Clerk for Judicial Matters in this policy.
2. Immediately upon receipt of a written allegation of Sexual Misconduct, the Associate Stated Clerk for Judicial Matters shall inform the Executive Presbyter merely that an allegation of misconduct has been made and against whom. The Presbytery shall then appoint an Investigating Committee (IC) in accordance with the *Book of Order – Rules of Discipline*.
  - a. The IC will be an *ad hoc* committee consisting of no fewer than three and no more than five individuals. (*Book of Order* D-10.0201a.)
  - b. In selecting members to serve on the IC, care should be given, whenever possible, to identifying a set of individuals who have among them the relevant expertise in pastoral care, the legal aspects of sexual misconduct, and familiarity with the operations of the Presbytery, this policy, and the *Book of Order*.
  - c. As soon as possible, the Associate Stated Clerk for Judicial Matters should outline to the IC its duties and provide appropriate orientation.
3. The Moderator of the Permanent Judicial Commission (PJC) shall designate two former members of

the PJC who shall offer the accused an opportunity to be heard regarding administrative leave for the accused. (*Book of Order 10.0106*).

- a. It shall be determined whether the accused shall remain in his or her position, with pay, pending investigation and/or proceedings or, if it is determined that there is sufficient severity to warrant immediate administrative leave for the accused. A recommendation to this effect shall be made to the Associate Stated Clerk for Judicial Matters:
    - i. Upon receiving a recommendation to grant administrative leave, the Associate Stated Clerk for Judicial Matters will discuss the matter with the Executive Presbyter.
    - ii. The Executive Presbyter and Associate Stated Clerk for Judicial Matters, acting on behalf of the Presbytery, shall decide whether such a leave, paid or unpaid, is to be granted.
4. The responsibilities of the Investigating Committee (IC) are set out in Book of Order – Rules of Discipline (D – 10.0202) and are as follows:
- a. review the statement of alleged offense to determine whether it alleges any facts that, if true, constitute an offense as defined in D-2.0203b. If the allegation is not an offense as defined in D-2.0203b, the investigating committee shall end its inquiry and report that to the clerk of the body. If an offense as defined in D-2.0203 is alleged, it shall proceed to the steps below.
  - b. provide the accused with a copy of the statement of alleged offense described in D-10.0101;
  - c. provide the person making the accusation with a statement of the investigating committee's procedures;
  - d. determine whether the accusation repeats allegations previously made against the accused, and if so, report to the council having jurisdiction over the accused that it will not file charges (D-10.0202k) unless the accusation contains new information warranting investigation or is the subject of an investigation that has not been concluded;
  - e. make a thorough inquiry into the facts and circumstances of the alleged offense;
  - f. examine all relevant papers, documents, and records available to it;
  - g. ascertain all available witnesses and inquire of them;
  - h. determine, in accordance with G-3.0102 and D-2.0203b, whether there are probable grounds or cause to believe that an offense was committed by the accused;
  - i. decide whether the charge(s) filed on the basis of the papers, documents, records, testimony, or other evidence can reasonably be proved, having due regard for the character, availability, and credibility of the witnesses and evidence available;
  - j. initiate, if it deems appropriate, alternative forms of resolution, ordinarily after the investigation has been completed, probable cause has been determined, but before the charges have been filed.

The purpose of alternative forms of resolution will be to determine if agreement can be reached between the investigating committee and the accused concerning any charges which may be filed.

- (1) Any mediation shall be completed within 120 days unless a continuance is allowed by the session or PJC.
- (2) The investigating committee shall report any settlement agreement to the session or PJC for its approval.
- (3) The session or PJC shall convene to receive the settlement agreement; vote to approve it by at least two-thirds of the members eligible to vote; make a record of its proceedings according to the provisions of D-11.0601d, including the name of the accused, the substance of the charge(s), and censure; and transmit its decision to the clerk of session or the Associate Stated Clerk for Judicial Matters, who shall report it according to the provisions of D-11.0701.
- (4) The IC shall provide an advocate for the accused throughout settlement negotiations, and may provide an advocate for other interested persons at its own discretion.

- (5) If a settlement satisfactory to both the IC and the accused is not reached, the investigating committee shall designate a prosecuting committee per D-10.02021, and the case shall proceed on the charges filed.
- k. report to the council having jurisdiction over the accused only whether or not it will file charges; and
  - l. if charges are to be filed, prepare and file them in accordance with the provisions of D-10.0401.0404, and designate one or more persons (to be known as the prosecuting committee) from among its membership to prosecute the case.

### **PREPARATION FOR TRIAL: MEETING NEEDS, PRESERVING RIGHTS OF THE ACCUSER OR COMPLAINANT**

1. To help meet the needs of the **accuser/complainant**, he or she has the right to ...
  - a. **Be heard and taken seriously.** From the time that the complainant indicates that sexual misconduct has occurred, the complainant should receive immediate attention and serious consideration from all church representatives.
  - b. **Receive pastoral and therapeutic support.** The complainant may require spiritual and professional assistance as a result of the alleged sexual misconduct. The Care of Congregations sub-committee of the presbytery's Committee on Ministry (COM) will offer to appoint, if it is desired by the complainant, an *ad hoc* care team of at least three members that will either offer such support itself or arrange to have it provided from a suitable pastor and/or a qualified therapist. Discussions with members of the team and their agents would be confidential, privileged conversations.
  - c. **Be informed about ecclesiastical process and progress with regard to the accusation.** The Associate Stated Clerk for Judicial Matters will keep the complainant properly informed as to what actions are taking place as a result of the accusation.
  - d. **Receive legal advice.** The Associate Stated Clerk for Judicial Matters should advise the complainant of his or her right to pursue independent legal advice.
  - e. **Be assured of an advocate of one's own choosing.** A complainant may need continuing moral support from an individual who is present while the church addresses the accusation. This advocate may be a relative, a friend, or an impartial third party. In certain circumstances, this advocate will speak for the complainant.
  - f. **Be assured that justice will be pursued.** The complainant needs to be shown by the processes of the church that justice is being pursued through fact-finding, truth-telling, confrontation and agreement that may include removal or temporary exclusion of the accused from office or impartial adjudication of the complaint.
  - g. **Receive healing and reconciliation.** In addition to the other forms of reconciliation mentioned above, the complainant may need to pursue healing, wholeness, and reconciliation with all concerned — with self, family, church and, possibly, the accused as well.
2. To help meet the needs of the **accused**, he or she has the right to ...
  - a. **Receive adequate information about the accusation.** When an allegation of sexual misconduct has been received by the Associate Stated Clerk for Judicial Matters, the IC will notify the accused that an allegation has been made.
    - i. The notification will be made in writing and should include advice that the accused have no further contact of any sort with the accuser, the alleged victim (if different from the accuser), or the family of either the accuser or alleged victim.
    - ii. will warn the accused that any statements made to the IC or any other person of entity of the church or the presbytery may be used against the accused in later proceedings.
    - iii. should explain the process by which the allegation of sexual misconduct will be investigated and the options available to the accused.

- iv. will recommend that the accused seek legal advice immediately since the allegation could result in civil or criminal court action.
  - v. The accused may require spiritual and professional assistance as a result of the allegations of sexual misconduct. The Care of Church Professionals sub-committee of the presbytery's Committee on Ministry (COM) will offer to appoint an ad hoc team to provide assistance as requested or as needed.
- b. **Obtain legal advice and assistance.** The accused may seek legal advice from any source, but it should be noted that in church disciplinary or remedial cases "no person shall act as counsel who is not a member of the Presbyterian Church (U.S.A.)" (*Book of Order*, D-11.0301). The accused is responsible for his or her own attorney fees, but, if an allegation proceeds to the initiation of a disciplinary case and the accused is unable to employ counsel, the accused may request appointment of counsel under the provisions of *Book of Order* (D-11.0302).
- c. **Receive pastoral counseling and care.** If the accused so desires, The Care of Church Professionals sub-committee of the presbytery's Committee on Ministry (COM) will appoint an *ad hoc* team, consisting of no fewer than three members. Members of the team should be spiritual or professional counselors with someone whose conversations with the accused would be recognized by courts as confidential and privileged communication.
- d. **All appropriate legal protections.** Before each and every conference with the accused, the accused should be informed of the right to remain silent, to be represented by counsel (*Book of Order* D-10.0203c) and, if charges are later filed, to have counsel appointed if he or she is unable to secure counsel (*Book of Order* D-11.0301-.0302).
- e. **Have his or her family remain economically secure.** The Presbytery should remain alert to the possible spiritual, emotional, and financial needs of the family of the accused and recommend expert resources. Nevertheless, individuals on the staff of the Presbytery should be cautioned against *personally* trying to meet these needs through loans, gifts, and other activities that may complicate any subsequent secular legal action.
- f. **Receive complete exoneration if acquitted.** If the accused is acquitted of the charge, it is important for the Presbytery to see that the acquittal is widely disseminated, unless doing so would further injure the person falsely accused. At the very least, all individuals who were officially informed of the accusation should also be officially informed of the acquittal.
3. To help meet the needs of the **congregation** affected by the accusation, it has the right to:
- a. **Receive assistance in relating to Session and Congregation.** Each situation will be different, but the Presbytery should be prepared to help plan for the anticipated needs of a particular congregation and to recommend expert resources.
  - b. **Pastoral care.** In cases where the accused is a minister, pastoral care should be provided to the congregation by another member of the ordained staff (if the church is a multiple-staff church) or by a trained pastor. If the minister leaves his or her position as a result of an accusation of sexual misconduct, a trained pastor or consultant in sexual misconduct may need to work with the congregation; in extreme cases this assistance may continue for an extended period of time. In cases where the accused is someone other than a minister, the pastor should provide the needed care for his or her congregation. The pastor, if not previously trained in this area of specialization, may wish to consult with denominational specialists who can provide advice on how to proceed in tending to the needs of the congregation and how to address any problems that may arise.
  - c. **Proactive attention while necessarily awaiting a determination of guilt or innocence.** Special care must be taken to meet a congregation's needs even as the process outlined in this policy is still unfolding. Rumors may be detrimental to the congregation's welfare. Decisions may need to be made about whether the congregation is best served by having the accused placed on administrative leave. Routine business may need to be tended to should the energies of the accused become focused on mounting a defense. It will be necessary for various

individuals and groups associated with the Presbytery — for instance, the Associate Stated Clerk for Judicial Matters, the

Executive Presbyter, and COM — to assist in meeting these needs of the congregation in accordance with their knowledge of the case and their appropriate professional role.

- d. **An appropriate amount of information about the case.** While certain types of information must remain confidential in order to protect the rights of both the complainant and accused, other types of information might be shared with the congregation in order to avoid misunderstandings, false rumors, and destructive speculation.
- e. **Resource persons.** Individuals whose services may be valuable to a congregation in the context of sexual misconduct could include a trained interim pastor, a COM representative knowledgeable in polity and the effects of sexual misconduct in the church, a consultant or therapist with knowledge and experience in dealing with sexual misconduct, an attorney who can discuss legal aspects of a case, an insurance agent who can advise the congregation about their exposure to liability or coverage, and other professionals of this sort.
- f. **Have its financial concerns addressed and taken seriously.** Allegations of sexual misconduct may have serious financial implications for a congregation. While each situation will be different, the Presbytery will work closely with the congregation in each case so that the lasting financial impact of these situations may be minimized.

## EFFECTING RESOLUTION AND RECONCILIATION

1. The ultimate goal, in cases where there is either a finding of fault or an admission of guilt, should always be to bring about as much healing, resolution, and reconciliation as possible between the individual responsible for the misconduct and the complainant, the congregation, Presbytery, and Church.

2. No single plan for healing, resolution, and reconciliation will be applicable to all situations. Nevertheless, it is likely that the body responsible for developing these plans will consider, among other options:

- a. Mandatory counseling for the individual responsible for the misconduct.
- b. Mandatory training in the prevention of sexual misconduct, either for individuals or for groups.
- c. Apologies, either formal or informal, to those adversely affected by the misconduct.
- d. An alteration of responsibilities, either permanently or for some set period.

3. It should be remembered — and openly discussed with the complainant, the individual that is allegedly responsible for the misconduct, and other parties affected by the misconduct — that the goal of this process is not to effect sanctions or punishment, and not with the intent to punish, humiliate, seek retribution, or alienate the individual responsible for the misconduct but to effect a plan for healing, resolution, and reconciliation. This part of the process is not intended to result in a sanction, such as may have been imposed by the PJC, but shall always be to **educate** the individual responsible for the misconduct and to **bring about his or her reconciliation** with the congregation, Presbytery, Church and, where possible, the complainant.

4. In cases where the accused is acquitted or where the IC has concluded that the allegation does not warrant full investigation, similar efforts should be taken to reach healing, resolution, and reconciliation. While in these cases, too, no single plan to accomplish this goal will be applicable to all situations, it is likely that the body responsible for developing these plans will consider, among other options:

- a. Mandatory or recommended counseling for the individual responsible for the allegation.
- b. Additional training in the meaning and nature of sexual misconduct, either for individuals or for groups.
- c. Apologies, either formal or informal, to the individual falsely accused.
- d. An alteration of reporting relationships or congregational membership, either permanently or for some set period.

## **APPEALS**

### **1. During the Investigation.**

- a. During the course of the investigation, the person against whom an allegation has been made may petition the PJC to review the procedures adopted by the IC.
- b. Proper subjects for such a petition shall be limited to whether the committee has followed a proper trail of evidence, whether the evidence being considered is properly in the hands of the IC, and whether the IC has examined relevant evidence proposed by the accused.
  - i. The review of the petition shall be done in an appeal hearing conducted by the two members of the Presbytery's PJC who are designated in D-5.0101 of the *Book of Order*.
  - ii. Members of the IC, the accused, and the complainant may all be present at the appeal hearing and represented by counsel.
  - iii. The appeal hearing shall be conducted within 30 days of receipt of the petition.
  - iv. Decisions shall be communicated to both parties within 15 days of the appeal hearing.
  - vi. The results of the review shall be communicated to the moderator of the PJC and will inform the review of charges as outlined in D-10.0405 of the *Book of Order*.

### **2. Upon Conclusion of the Investigation.**

- a. Once the investigation has concluded, the person against whom an allegation has been made may not petition for an appeal until either the trial or alternative resolution has been conducted. (See *Book of Order* D-11.0502.)
- b. If the conclusion of the IC is that no charges will be filed or that insufficient evidence exists for further action, the complainant has 30 days from receipt of this report to petition the PJC to review the IC's decision.
- c. The complainant must outline in this petition those instances in which the IC has not fulfilled the duties specified in D-10.0202 of the *Book of Order*.
- d. The IC shall submit a written response to the facts alleged in the petition.
- e. The designated members of the PJC shall consider the petition and the IC's response, giving attention to the duties specified in D-10.0202 of the *Book of Order* and to the question of whether the principles of church discipline will be preserved by the decision of the IC not to file charges. The decision of the designated members of the commission upon the petition and response shall be rendered within 90 days.
- f. If the petition is sustained, a new IC shall be appointed by the Presbytery.
- g. If the petition is rejected, the matter is concluded.

### **3. Upon Conclusion of the Trial.**

#### **1. Initiation of an Appeal of a Remedial Case**

- a. An appeal of a remedial case is the transfer to the next higher council of a case in which a decision has been rendered in a lower council, for the purpose of obtaining a review of the proceedings and decision to correct, modify, set aside, or reverse the decision. (*Book of Order* D-8.0101).
- b. An appeal may be initiated only by one or more of the original parties in the case, and is accomplished by the filing of a written notice of appeal. (*Book of Order* D-8.0102).
- c. Once the trial has concluded, appeals, including grounds for appeals and procedures, are governed by D-8.0000 *et seq.* of the *Book of Order*.

#### **2. Initiation of Appeal of a Disciplinary Case**

- a. An appeal of a disciplinary case is the transfer to the next higher council of a case in which a decision has been rendered in a lower council, for the purpose of obtaining a review of the proceedings and decision to correct, modify, set aside, or reverse the decision. (*Book of Order* D-13.0101 *et seq.*).

- b. Only the person found guilty may initiate the first level of appeal by the filing of a written notice of appeal. (*Book of Order* D-13.0102).
- c. Once the trial has concluded, appeals, including grounds for appeals and procedures, are governed by D-13.0000 *et seq.* of the *Book of Order*.