

CHAPTER XII

PRESBYTERY OF SHENANDOAH Sexual Misconduct Policy

12.1. INTRODUCTION

12.1.1. 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

Those who are called to office in our church are to lead a life in obedience to Scripture and in conformity to the historic confessional standards of the church. Among these standards is the requirement to live fully in fidelity within the covenant of marriage between a man and a woman (W-4.9001), or chastity in singleness. Persons refusing to repent of any self-acknowledged practice which the confessions call sin shall not be ordained and/or instituted or installed as deacons, elders, or ministers of the Word and Sacrament.

Book of Order G-6.01 06b (as amended in 1997)

12.1.2. Policy Statement

It is the policy of the Shenandoah Presbytery that all employees and/or members of the Presbytery shall maintain at all times the integrity required by the Church's Christian tradition and their own professional relationships. All forms of sexual misconduct as defined in §2 below are regarded as a violation of the principles set forth in Scripture and are thus never permissible.

12.1.3. Purpose of This Policy

Shenandoah Presbytery has adopted this policy on sexual misconduct for the use of all ministers, members, and other employees under its jurisdiction. The purposes of the policy are to:

- 12.1.3.1. Set high standards of ethical behavior consistent with Scripture, the Reformed tradition, and secular law.

- 12.1.3.2. Serve as a guide for the prevention of all types of sexual misconduct.
- 12.1.3.3. Establish procedures for inquiry and effective response when allegations of sexual misconduct occur.
- 12.1.3.4. Safeguard employees and members of the church from both sexual misconduct and false allegations.
- 12.1.3.5. Protect the rights and meet the needs of the accused, the complainant, the congregation(s) involved, and the Presbytery as a whole.
- 12.1.3.6. Establish a process for the enforcement of those standards that are set forth in this policy.
- 12.1.3.7. 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.
- 12.1.3.8. Promote, whenever possible, the reconciliation to the church of individuals who, after due process has occurred, are deemed to have violated the terms of this policy.
- 12.1.3.9. 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 Shenandoah Presbytery.
- 12.1.3.10. Further the peace, unity, and purity of the church through justice and compassion.

12.1.4. Guiding Principles behind This Policy

It is our belief as Christians that Scripture calls each of us to high ethical and moral standards in all aspects of our lives, including our sexual behavior. These standards assume even greater importance when an individual provides leadership to the Shenandoah Presbytery and its churches because of the trust inherent in that position. For this reason, the guiding principles that stand behind this policy are that **sexual misconduct** (as defined in §2 of this document):

- 12.1.4.1. Violates one's covenant as a leader who has undertaken to demonstrate responsibility, integrity, sensitivity, and caring in a trust relationship.
- 12.1.4.2. Is a misuse of authority and power that breaches Christian ethical principles by violating a trust relation for advantage over another or for personal pleasure in an abusive, exploitative, and unjust manner. Even if someone else initiates or invites sexual contact in the relationship, the individual who is in a position of authority is responsible for maintaining appropriate boundaries and prohibiting improper relationships. There is no such thing as "consenting adults" in such a setting.

- 12.1.4.3. Takes advantage of the vulnerability of others in a way that is contrary to the central teachings of the Gospel, which enjoins us to protect the vulnerable from harm.

A further guiding principle of this policy will be to deal openly and honestly with the issue of sexual misconduct, to provide healing and reconciliation to the greatest extent possible, to help those who have done wrong as well as those who have had wrong done to them, and to seek to provide remedies, whenever possible and appropriate, that do not require recourse to formal church judicial processes.

12.2. DEFINITIONS

12.2.1. Accused

The individual against whom an allegation of sexual misconduct has been made. For the purposes of this policy, it is assumed that the accused is a paid or unpaid member of the staff of Shenandoah Presbytery, including — but not limited to — its ministers. Allegations against other individuals should be made to whichever body has appropriate jurisdiction. For instance, an accusation against an elder who does not serve on the staff of Shenandoah Presbytery should be made to that elder's Session.

12.2.2. 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.

12.2.3. Church

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

12.2.4. Complainant

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.

12.2.5. 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.).

12.2.6. 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.

12.2.7. Presbytery

When capitalized, refers to the Shenandoah Presbytery.

12.2.8. Rape

Sexual contact resulting from force, threat, or intimidation.

12.2.9. 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.

12.2.10. 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 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.

12.2.11. Sexual Malfeasance

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.

12.2.12. Sexual Misconduct

A comprehensive term that includes:

- a] Sexual abuse of a minor
- b] Sexual harassment
- c] Rape
- d] Inappropriate sexual conduct
- e] Sexual malfeasance

12.3. PROCEDURE FOR INVESTIGATION AND PREPARATION FOR A TRIAL

12.3.1. Allegations of sexual misconduct on the part of individuals governed by this policy, including but not limited to the ministers and employees of the Presbytery, are to be made in writing to the Stated Clerk.

- a. Should an individual wish to make an allegation of sexual misconduct on the part of the Stated Clerk, it should be submitted in writing to the General Presbyter.
- b. In such cases, the General Presbyter (or his or her designee) would then assume all duties otherwise assigned to the Stated Clerk in this policy.

12.3.2. Immediately upon receipt of a written allegation of Sexual Misconduct, the Stated Clerk shall inform the General 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 Presbytery Manual §4.3.5.3.A.

- a. The IC will be an *ad hoc* committee consisting of no fewer than three and no more than five individuals. (See *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 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 Stated Clerk should outline to the IC its duties and provide appropriate orientation.

12.3.3. The **initial task** of the IC shall be to determine whether the allegation:

- a. **Involves a possible violation of federal, state, or local law.** If so, Stated Clerk *must* refer the allegation to the appropriate secular authorities and (with the possible exception of §3.3[b] below) the process outlined in this document should be suspended until the civil process has reached its conclusion.
- b. **Is of sufficient severity to warrant immediate administrative leave for the accused.** If so, a recommendation to this effect should be made to the Stated Clerk.
 - i. Upon receiving a recommendation to grant administrative leave from the IC, the Stated Clerk will discuss the matter with the General Presbyter. The General Presbyter and Stated Clerk, acting on behalf of the Presbytery, shall decide whether such a leave is to be granted. The leave, if granted, will be paid or unpaid according to the guidelines set forth under the definition of “Administrative Leave” in §2.
 - ii. If the accused refuses to accept an administrative leave once it has been granted, the Presbytery may, if it chooses, proceed under G-11.0103(o) of the *Book of Order* or the appropriate personnel policy to remove the accused from his or her position. (See PCUSA Polity Reflections Note #31: <http://www.pcusa.org/oga/conserv/note31.htm>).

12.3.4. The **second task** of the IC will be to determine whether:

- a. **The allegation has sufficient merit to warrant further investigation.** If not, the IC reports this finding to the Stated Clerk, who files a written report of this fact alone to the Presbytery. The IC is then dissolved.
- b. **The accused disputes the general substance of the allegation.** If not, the IC proceeds to §3.5[g] below.
- c. **The allegation is more appropriately addressed by full investigation rather than by mediation, counseling, or other less formal measures.** If not, the IC proceeds to §3.5[g] below.

12.3.5. If the IC finds that all of the criteria outlined in §3.4 above have been met, its **third task** is to conduct an investigation. In accordance with D-10.o201 of the *Book of Order*, during this investigation the IC must:

- 12.3.5.1. provide the accused with a copy of the statement of the alleged offense as described in D-10.0101 of the *Book of Order*.
- 12.3.5.2. make a thorough inquiry into the facts and circumstances of the alleged offense.

- 12.3.5.3. examine all relevant papers, documents, and records available to the IC.
- 12.3.5.4. ascertain all available witnesses and make appropriate inquiries of them.
- 12.3.5.5. determine, in accordance with G-9.0102 and D-2.0203b of the *Book of Order*, whether there are probable grounds or cause to believe that an offense was committed by the accused.
- 12.3.5.6. decide whether the allegation(s) reported — 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.
- 12.3.5.7. initiate, if the IC deems it appropriate, alternative forms of resolution.
- a. Ordinarily these alternative forms of resolution — which may include mediation, formal or informal apologies, counseling, and other such measures — should be pursued only after an investigation has been completed and probable cause has been determined, but before formal charges have been filed.
 - b. In certain cases, however, alternative forms of resolution may be explored even before the investigation has concluded if such resolution is acceptable to both the complainant and the accused.
 - c. If mediation is attempted, it shall be completed within 120 days of its onset unless a continuance is allowed by the Permanent Judicial Commission of the Presbytery (PJC).
 - d. The IC shall convey any recommended settlement agreement to the PJC for its approval.
 - e. Throughout settlement negotiations, both parties shall be provided with an advocate if they desire one.
 - f. If a settlement satisfactory to all parties involved in the mediation is not reached within the stipulated period, the IC shall then proceed to consideration of whether charges should be filed.
- 12.3.5.8. report to the Presbytery only whether or not it will file charges.
- 12.3.5.9. if charges are to be filed, the IC will
- a. prepare and file them in writing with the Stated Clerk in accordance with the provisions of D-10.0401-.0404 of the *Book of Order*.
 - b. determine how it shall reconfigure itself as a Prosecuting Committee (PC). Based on the complexity of the case, the PC may consist of:
 - i. all members of the IC, serving as a **committee of the whole**;
 - ii. selected representatives of the IC, serving as a **subcommittee**; or
 - iii. a single representative of the IC, serving as the committee's **delegate and representative**.

12.3.6. If the IC decides to file charges,

- a. the IC shall
 - i. promptly inform the accused in writing of the charges it will make, including a summary of the facts it expects to prove at trial in order to support those charges.
 - ii. ask the accused if he or she wishes to plead guilty to the charges as a means of avoiding full trial.
 - iii. indicate to the accused the censure it will recommend to the PJC.
- b. consideration shall be given to the possibility of reference. (See *Book of Order* D-4.0000.)
- c. the Permanent Judicial Council shall follow the procedure for responding to those charges and conducting a trial that is outlined in the *Book of Order* (D-10.0404, 10.0405, and 11.0000).

12.3.7. If the IC decides not to file charges, the IC shall

- a. file a written report of that fact alone with the Stated Clerk, who will then notify the complainant.
- b. ask the Presbytery to dispose of all records in accordance with existing Presbytery policy.

12.4. MEETING NEEDS, PRESERVING RIGHTS

12.4.1. To help meet the needs of the **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 Stated Clerk will offer to appoint, if it is desired by the complainant, an *ad hoc* response coordination team (RCT) 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 RCT and their agents would be confidential, privileged conversations.
- c. **Be informed about church process and progress with regard to the accusation.** The Stated Clerk should appoint a liaison who will keep the complainant properly informed as to what actions are taking place as a result of the accusation. In cases where there is an RCT, the liaison will ordinarily be a member of that body.
- d. **Receive legal advice.** The Stated Clerk 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 attain a degree of healing, wholeness, and reconciliation with all concerned — with the self, the family, the church and, ideally, the accused as well. For more on resolution and reconciliation, see §5 below.

12.4.2. 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 Stated Clerk, the IC will notify the accused that an allegation has been made. This notification
 - i. 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 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 church discipline or in civil or criminal court action.
- 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-8.1000). The Stated Clerk may be able to recommend a list of Presbyterian lawyers who are willing to consider representing parties in church disciplinary cases. 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-8.1000b.
- c. **Receive pastoral counseling and care.** If the accused so desires, the Stated Clerk will appoint an *ad hoc* Team of Counselors (ToC), consisting of no fewer than three members. (In cases where the accused is a member of the clergy, the CoM may appropriately be asked to take responsibility for either serving as or helping to select the ToC.) Members of the ToC should be spiritual or professional counselors with someone whose conversations with the accused would be recognized by courts as confidential and privileged communication. Note that, while the Stated Clerk or General Presbyter may be asked to suggest names of impartial clergy or therapists, they should not *themselves* engage in this type of pastoral care and counseling because their conversations would not be confidential and because of their potential involvement in the disciplinary process.

- d. **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.
- e. **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* G-11.0502j, D-7.0900) 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).
- f. **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.
- g. **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.

12.4.3. To help meet the needs of the **congregation** affected by the accusation, it has the right to ...

- a. **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 interim pastor. If the minister leaves his or her position as a result of an accusation of sexual misconduct, a trained interim 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.
- b. **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 about that are 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 Stated Clerk, the General Presbyter, and the CoM — to assist in meeting these needs of the congregation in accordance with their knowledge of the case and their appropriate professional role.
- c. **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 should be shared with the congregation in order to avoid misunderstandings, false rumors, and destructive

speculation. For instance, if a case of sexual misconduct becomes a matter of public knowledge within a congregation and if a pastor has been found guilty of sexual misconduct, an interim pastor or consultant may be needed to hold meetings with individuals, small groups, or the whole congregation. Such meetings should provide information about sexual misconduct in general, Presbyterian polity and judicial process, and the process by which others who may have been victimized may be heard and ministered to. If the accused is not the pastor, then the pastor should perform these functions in most cases.

- d. **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.
- e. **Have its financial concerns addressed and taken seriously.** Allegations of sexual misconduct may have serious financial implications for a congregation. Paid administrative leaves may need to be funded, counselors may need to be retained, and interim staffing may need to be sought. While each situation will be different, the Presbytery should work closely with the congregation in each case so that the lasting financial impact of these situations may be minimized and the congregation's return to wholeness may be effected in as timely a manner as possible. In situations where a paid administrative leave would be financially burdensome to the congregation, the CoM may be requested to assist in finding an appropriate solution to this problem.

12.5. EFFECTING RESOLUTION AND RECONCILIATION

- 12.5.1. The ultimate goal, in cases where there is either a finding of fault or an admission of guilt, should always be to effect as much healing, resolution, and reconciliation as possible between the individual responsible for the misconduct and the complainant, congregation, Presbytery, and Church.
- 12.5.2. In cases where the individual responsible for the misconduct is a member of clergy, the CoM will be responsible for designing and implementing a plan for effecting this healing, resolution, and reconciliation.
- 12.5.3. In cases where the individual responsible for the misconduct is not a member of clergy, the Stated Clerk, working in consultation with the General Presbyter and the Chair of the CoM, will name an appropriate group of individuals to design and implement a plan for effecting healing, resolution, and reconciliation. At times, this group will be some existing body or standing committee; at other times, this group will be an *ad hoc* committee established solely for this purpose.
- 12.5.4. 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.
- 12.5.5. It should be remembered — and openly discussed with the complainant, the individual responsible for the misconduct, and other parties affected by the misconduct — that the plan for healing, resolution, and reconciliation should never be developed with the intent to punish, humiliate, seek retribution, or alienate the individual responsible for the misconduct. **This part of the process is not intended to result in a sanction, such as may have been imposed by the PJC.** Rather the goal of this stage of the process should 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.
- 12.5.6. Similar care should be taken, whenever necessary, to provide ongoing pastoral care to the complainant and/or the congregation affected by the misconduct in order that all parties may reach, to the greatest extent possible, a sense of closure, healing, and wholeness in a timely manner.
- 12.5.7. 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.

12.6. APPEALS

12.6.1. **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.
- v. 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*.

12.6.2. 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 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. (Revert to §3.2.)
- g. If the petition is rejected, the matter is concluded.

12.6.3. Upon Conclusion of the Trial.

- a. Once the trial has concluded, appeals are governed by D-13.0000 of the *Book of Order*.
- b. Grounds for appeal are outlined in D-13.0106 in the *Book of Order*.

12.7. PREVENTING SEXUAL MISCONDUCT

12.7.1. The Presbytery should be proactive in providing educational programs and training in pastoral care that seeks to prevent sexual misconduct before it occurs. The CoM, the Committee on the Preparation for Ministry, and the PJC should each be instructed to provide what it deems an adequate amount of training to its constituencies.

12.7.2. 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/clients.

- 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, and
 - 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.

12.8. CONTACT INFORMATION

Current contact information for the General Presbyter and Stated Clerk of the Shenandoah Presbytery may always be found online at <http://www.shenpres.org/about.htm> or by calling 540.433.2556.

Current contact information for the moderator of the PJC, the Committee on Ministry (CoM), and other standing committees of the Shenandoah Presbytery may always be found online at <http://www.shenpres.org/council.html> or by calling 540.433.2556.

The mailing address of the Shenandoah Presbytery is:

Shenandoah Presbytery
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