

# Policy Against Sexual Misconduct of the Presbytery of Middle Tennessee

Adopted and In Effect as of February 6, 2021

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## Statement on the Policy Against Sexual Misconduct

"To those called to exercise special functions in the church—deacons, ruling elders, and ministers of the Word and Sacrament—God gives suitable gifts for their various duties. In addition to possessing the necessary gifts and abilities, those who undertake particular ministries should be persons of strong faith, dedicated discipleship, and love of Jesus Christ as Savior and Lord. Their manner of life should be a demonstration of the Christian gospel in the church and in the world. They must have the approval of God's people and the concurring judgment of a council of the church." G-2.0104a.

Sexual misconduct in the church is an abuse of authority and power, breaching Christian ethical principles by misusing a trust relationship to gain advantage over another for personal gratification in an exploitive and unjust manner.

It is the policy of the Presbytery of Middle Tennessee ("PMT") that church members, church officers, certified employees, non-member employees, and volunteers, its congregations, and entities maintain the integrity of the ministerial, employment, and professional relationship at all times in service to the Presbytery. Persons who engage in sexual misconduct are in violation of the principles set forth in Scripture, and also of the ministerial, pastoral, employment, and professional relationship. It is never permissible or acceptable for a church member, officer, employee, or volunteer to engage in sexual misconduct.

### Application of Policy

This policy applies to all church members, church officers, certified employees, non-member employees, and volunteers in service to and within the Presbytery of Middle Tennessee.

#### Definitions

For the purpose of this policy the following definitions shall apply:

1. **Abuse:** verbal, physical, emotional, or sexual violation of a child, youth, or member of a vulnerable population
2. **Criminal Background Check (CBC):** the procedure used by a qualified agency to check the background of Ministers of the Word and Sacrament as part of the call process or reception into the Presbytery, potential employees of the Presbytery, ruling elders to be commissioned for pastoral service, and persons entering the inquiry / candidacy process, for criminal activity.
3. **Sexual misconduct:** comprehensive term used in this policy to include:
  - a. **Child sexual abuse:** includes, but is not limited to, any contact or interaction between a child and an adult when the child is being used for the sexual stimulation of the adult person or of a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult is always considered forced whether or not consented to by the child. In the Presbyterian Church (U.S.A.), the sexual abuse definition of a child is anyone under age eighteen.

- b. **Sexual abuse:** as defined in the *Book of Order*. "Sexual abuse of another person is any offense involving sexual conduct in relation to (1) any person under the age of eighteen years or anyone over the age of eighteen years without the mental capacity to consent; or (2) any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position." (D-10.0401c.)
  - c. **Sexual harassment:** unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
    - i. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or their continued status in an institution;
    - ii. submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual;
    - iii. such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or offensive working environment; or
    - iv. an individual is subjected to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit any person.
  - d. **Rape** or sexual contact by force, threat, or intimidation.
  - e. **Sexual conduct** is offensive, obsessive or suggestive language or behavior, unacceptable visual contact, unwelcome touching or fondling that is injurious to the physical or emotional health of another.
  - f. **Sexual Malfeasance:** the broken trust resulting from sexual activities within a professional ministerial relationship that results in misuse of office or position arising from the professional ministerial relationship.
  - g. **Misuse of technology:** use of technology that results in sexually harassing or abusing another person, including texting or emailing suggestive messages or images to persons with whom one has a ministerial relationship. It is never appropriate to view pornography or sexually explicit material on church property. When this includes a person under the age of eighteen, it is considered child abuse. There is never an expectation of personal privacy when using technological equipment owned by a church or church entity or within the context of ministry.
9. **Accused:** the person against whom an allegation of sexual misconduct is being made.
  10. **Accuser:** the person claiming knowledge of sexual misconduct by a person covered by this policy. The accuser may or may not have been the victim of the alleged sexual misconduct.
  11. **Victim:** the person alleged to have been harmed and/or abused by a person covered under this policy.
  12. **Advocate:** a person appointed by the chair of the COM, in consultation with the Executive Presbyters and the Stated Clerk during the investigative process of sexual misconduct. The advocate provides support, and emotional and physical presence to the person for whom

they are advocating.

13. **Mandated Reporter:** a person who is required by law to report any and all suspected incidents of child abuse, including child sexual abuse, that comes to their attention. While State laws may vary, the policies of the PCUSA require all persons ordained in the Presbyterian Church (U.S.A.) (Deacons, Elders and Ministers of Word and Sacrament) to report all suspected incidents of child sexual abuse to ecclesiastical and civil authorities (G-6.0204b, G-6.-0304b, G- 6.0402b).

Rape or sexual assault is a crime in every state and shall be reported to civil authorities and to the Stated Clerk.

14. **Minister:** The term "minister" includes: Ministers of the Word and Sacrament as defined in the *Book of Order*, G-2.0501. Ministers serving PMT churches under the Formula of Agreement remain under the jurisdiction of their denomination, and the Presbytery may participate in their judicial process if necessary.

## **Policy Against Sexual Misconduct**

1. Sexual misconduct in any form is never permissible. It is a violation of the principles set forth in Scripture as well as of ministerial, pastoral, employment, and professional relationships. Sexual misconduct by persons in ordered ministry violates the ordination vows of the Presbyterian Church (U.S.A.) and the PMT Code of Ethics for Clergy and Other Church Professionals.
2. Ministers received by PMT, commissioned pastors, and employees of PMT are required within one year of reception to attend a seminar on the issues of sexual misconduct offered by PMT or another source satisfactory to the Committee on Ministry.
3. Thereafter, every three (3) years all persons subject to this policy shall attend a seminar offered by PMT or another source satisfactory to the COM on the issues of sexual misconduct.
4. Each congregation and organization in PMT is responsible for developing a policy for its officers, members, non-member employees, and volunteers which is consistent with this document. It is incumbent on each PMT entity to ensure compliance with its policy.

## **Responsibilities and Roles in Policy Implementation**

### **Availability of Policy and Procedures**

1. Every person subject to this policy shall be given a copy of the policy and be required to sign an acknowledgment of receipt. Such signature indicates the person's agreement to abide by the terms of this Policy Against Sexual Misconduct.
2. This policy shall also be available to all church members and to the public.
3. PMT employees shall receive and sign this document as a supplement to the personnel policies.
4. This policy will be sent to every Clerk of Session annually.

### **Management of Allegations of Sexual Misconduct by Ministers**

#### **1. Resource Documents**

The responsibilities, structures and procedures for responding to allegations of sexual misconduct are mandated

- a. by the *Book of Order* in the Rules of Discipline, and
- b. by PMT policies.

#### **2. Liability and Insurance**

PMT and its congregations shall periodically obtain from their insurance agents, confirmation that their liability insurance policy covers sexual misconduct liability for its programs and activities.

#### **3. Record Keeping**

PMT will include in every employee's personnel file, the application for employment, any employment questionnaires, reference responses, and other documents related to this policy including a signed receipt for receiving the Policy Against Sexual Misconduct. Files for ministers, commissioned pastors, certified personnel, inquirers, and candidates will include documents related to this policy, and a signed receipt for receiving the Policy Against Sexual Misconduct.

## **Pre-Employment Screening for Prospective Incoming Clergy**

### **1. Reference Checks**

Pre-employment screening includes specific questions related to previous complaints of sexual misconduct. PMT reviews the Sexual Misconduct Self-Certification of the Presbyterian Church (U.S.A.) Personal Information Form when interviewing persons seeking ministerial calls.

The Office of the Co-Executive Presbyters is responsible for reference checks to ascertain whether persons being considered have any history of sexual misconduct. The Co- Executive Presbyters report to the Pastor Nominating Committee chair and / or the Committee on Ministry either that there was no reported sexual misconduct, or that the COM should inquire into reported sexual misconduct. A written record of conversations and correspondence with references will be kept in the minister's/employee's personnel file.

The person within the PMT authorized to provide a reference is obligated to give truthful and complete information regarding complaints, inquiries, and administrative or disciplinary action related to sexual misconduct by the applicant. The applicant shall be given an opportunity to correct or respond to information obtained from a reference check.

### **2. Background Checks**

Screening for prospective ministers, commissioned pastors, PMT employees, and inquirers and candidates also includes a mandatory Criminal Background Check performed by a private investigative firm which will access the misdemeanor and felony conviction records of courts in the United States, as well as the Federal and state sexual offenders registries. The criminal background check is based on the last seven years' residential history of the applicant.

The Stated Clerk provides the necessary background check forms and releases. Upon receipt of the executed forms, the Stated Clerk orders the background check, which the Presbytery pays for. The completed background check is reviewed by the Stated Clerk, who also notifies the appropriate persons of the results. The Presbytery's Background Check Policy (Appendix A) details the process in the event of a negative report. The completed report is securely archived.

## **Education**

The PMT has a commitment to offer, provide resources for, and to publicize educational opportunities aimed at preventing sexual misconduct in the church.



PMT staff, ministers, inquirers, candidates, and all persons and committees working with the issue of sexual misconduct and boundaries, including local congregations, will be invited to read the resources and attend sexual misconduct prevention seminars.

### **Policy on Response to Allegations**

Allegations of sexual misconduct, abuse, and / or harassment shall be reported to the Stated Clerk, and where applicable, to the civil authorities. The investigative process is detailed

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in the Rules of Discipline of the *Book of Order*.

## **Code of Ethics**

I have been given a copy of the Policy Against Sexual Misconduct of the Presbytery of Middle Tennessee and will abide by it. I understand that abuse of children, youth and members of vulnerable populations is a serious matter and I am willing to do my part in the prevention of abuse while a member of the PMT. I understand that violation of this policy is grounds for dismissal from my position.

Print Name \_\_\_\_\_ Date \_\_\_\_\_

Applicant's Signature \_\_\_\_\_

## Appendix A

### COMMITTEE ON MINISTRY PRESBYTERY OF MIDDLE TENNESSEE POLICY ON BACKGROUND CHECKS

*“The Church’s ministry is a gift from Jesus Christ to the whole Church. Christ alone rules, calls, teaches, and uses the Church as he wills, exercising his authority by the ministry of women and men for the establishment and extension of God’s new creation. Christ’s ministry is the foundation and standard for all ministry, the pattern of the one who came “not to be served but to serve” (Matt. 20:28). The basic form of ministry is the ministry of the whole people of God, from whose midst some are called to ordered ministries, to fulfill particular functions. Members and those in ordered ministries serve together under the mandate of Christ.” G-2.0101*

*“The Church’s ordered ministries described in the New Testament and maintained by this church are deacons and presbyters (ministers of the Word and Sacrament and ruling elders). Ordered ministries are gifts to the church to order its life so that the ministry of the whole people of God may flourish. The existence of these ordered ministries in no way diminishes the importance of the commitment of all members to the total ministry of the church.*

*The government of this church is representative, and the right of God’s people to elect presbyters and deacons is inalienable. Therefore, no person can be placed in any ordered ministry in a congregation or council of the church except by election of that body.*

*Ordination to the ministry of deacon, ruling elder, or minister of Word and Sacrament (also called teaching elder) is unique to that order of ministry.” G-2.0102*

The Committee on Ministry of the Presbytery of Middle Tennessee seeks to fulfill its responsibility to the churches, sessions, and teaching elders by ensuring quality pastoral leadership that is Presbyterian and Reformed. Background checks are required as an additional assessment of a candidate’s character and fitness, so that the presbytery through its COM, the congregation through the pastor nominating committee, and the candidate through prayer and discernment, are all guided towards the movement of God’s will for the Church.

The Committee on Ministry strongly encourages its churches to develop and utilize similar policies for its employees and volunteers.

#### **A. Purpose and Scope**

The Presbytery of Middle Tennessee adopts this policy so that Pastor Nominating Committees, the Committee on Ministry, and the Committee on Preparation for Ministry may make informed decisions about those persons seeking membership or employment in the Presbytery of Middle Tennessee. This policy reflects the presbytery’s commitment to exercise appropriate diligence and oversight to its churches and ministers. Its purpose is to:

1. Implement policies intended to prevent abuse of children and other abuses of authority;
2. Discover and verify background information provided by all candidates and teaching elders seeking membership or employment in the Presbytery of Middle Tennessee; and
3. Accomplish these purposes without limiting or compromising the existing authority of the Committee on Ministry to recommend termination of a call or employment based on reasons wholly unrelated to the findings (or lack thereof) of a background check pursuant to this policy.

Effective the date this policy is adopted, the Presbytery will conduct background checks as part of the clearance process for all teaching elders seeking to become members of the Presbytery; ruling elders seeking to be commissioned; candidates; and applicants for Presbytery staff positions.

Background checks will also be required for teaching elders transferring within the bounds of the presbytery. Exceptions to background checks for teaching elder members of the Presbytery of Middle Tennessee may be made on a case-by-case basis by the Committee on Ministry.

#### **B. Required Background Checks**

The following background checks will be required:

1. Presbytery-to-Presbytery reference checks (usually handled by the Executive Presbyter)
2. Criminal Record History, to include both Federal and state sexual offenders registries
3. Education
4. Employment History
5. Motor Vehicle Record

Records and histories will be for the past seven to 10 years; pre-employment screening will include specific questions related to previous complaints of sexual misconduct contained in Personal Information Forms or revealed through the background checks.

#### **C. Persons Authorized to Order Background Checks and Review Reports**

The Executive Presbyter will ordinarily perform the presbytery-to-presbytery check; either the COM chair or the Stated Clerk will order the remaining background checks (2 - 5). Normally, the Stated Clerk will receive, review, and retain (with parameters defined) the background checks, providing a summary when necessary.

#### **D. Process and Cost of Background Checks**

The Committee on Ministry shall select and engage a firm to conduct these checks that is experienced and recognized as a timely and reliable source.

The Presbytery will conduct background checks as part of the clearance process. The Presbytery will pay for background checks.

#### **E. Procedure**

1. Prospective members and employees of Presbytery shall be informed during the interviewing and selection process that a background check will be conducted and asked to sign a consent and release form to authorize it.
2. Copies of the consent and release form will go to the Stated Clerk. A background check will be initiated upon receipt of the form.

3. Background check reports will be sent to the Stated Clerk, who will consider the results of the presbytery-to-presbytery reference check and the background check report, as well as the PIF / resume to determine if any of the following are present:
  - a. Pending criminal or civil proceeding of any kind;
  - b. Conviction of any criminal offense;
  - c. A deferred adjudication on any offense;
  - d. A judgment against the candidate in a civil case;
  - e. A pending ecclesiastical disciplinary proceeding;
  - f. A judgment or act of censure entered in an ecclesiastical disciplinary proceeding;
  - g. An alternative form of resolution agreement approved by a permanent judicial commission in the Presbyterian Church (U.S.A.) or equivalent body of another church resolving an ecclesiastical disciplinary proceeding;
  - h. Any inconsistency between the background check report and the educational, employment, and criminal background information provided by the candidate;
  - i. Allegations of sexual misconduct that did not result in criminal charges will be considered on a case-by-case basis. The COM chair, in consultation with the Executive Presbyter and the Stated Clerk, shall investigate the allegations and make a determination on whether to proceed with the candidacy.

Where appropriate the Executive Presbyter and the COM Chair will counsel both the prospective candidate and the Pastor Nominating Committee.

4. The Committee on Ministry will take into account the failure of a candidate to volunteer critically important information regarding criminal or misdemeanor history. A formal interview process shall be established with the Executive Presbyter and the COM chair, who will decide on the next steps and document those findings.
5. Should an otherwise qualified candidate be unwilling to sign a release, the candidacy shall not proceed.
6. A teaching elder, candidate, or potential employee who believes that information in the report is inaccurate, misleading, false, or incomplete, shall have the right to dispute it with the investigative firm and the Committee on Ministry.
7. These reports will be kept in a secured file in the Stated Clerk's office.
8. If the background check report discloses no relevant information or inconsistencies, the Stated Clerk will notify the COM Transitions Team liaison and the chair of the church's PNC of that fact in writing. The Stated Clerk shall retain evidence of the completion of the background check process; the background check report will be archived in a secure file.
9. If the background check report discloses relevant information or inconsistencies:
  - a. *Notice to Candidate* - If a background check report or presbytery-to-presbytery reference check discloses the existence of any information or inconsistencies, the Stated Clerk shall promptly contact the candidate and inform him/her of such information or inconsistencies. The Stated Clerk shall also provide him/her a copy of the background check report.

b. *Response by Candidate* - Within ten (10) days of the notification in 9a, the candidate shall deliver to the Stated Clerk a letter confirming or denying the information contained in the report, along with any evidence relevant to support the candidate's position.

c. *Continuation of Candidacy* - Upon receipt of the candidate's letter and supporting evidence, the Stated Clerk, the Executive Presbyter, the COM chair, and/or the PNC (as provided herein) shall determine whether the person's candidacy will continue using the following criteria:

(1) *Conviction or Other Final Disposition in Case Involving Any Criminal Offense or Sexual Misconduct*

(a) If the background check confirms that the candidate's personal history contains a conviction or deferred adjudication for any criminal offense or any other criminal charge involving sexual misconduct, the candidacy shall be terminated and the candidate notified in writing and, if applicable, the chair of the PNC shall be notified in writing.

(b) If the background check confirms the candidate's personal history contains (i) a judgment against or settlement involving the candidate in a civil case involving sexual misconduct; or (ii) a judgment, act of censure, or alternative form of resolution agreement resolving an ecclesiastical disciplinary proceeding involving sexual misconduct, the candidacy shall be terminated and the candidate, and if applicable, the chair of the PNC, shall be notified in writing.

(2) *Pending Criminal Charges, Civil Complaint Involving Any Offense, Sexual Misconduct, or Ecclesiastical Proceeding*

If the background check confirms the existence of any pending criminal, civil or ecclesiastical proceeding against the candidate involving any criminal offense or sexual misconduct, the Stated Clerk shall advise the COM Chair, the candidate, and the chair of the PNC (if applicable) in writing that the candidacy will be suspended. The candidate may submit written information to the PNC and the Stated Clerk regarding the charges. The PNC shall advise the COM Chair and the candidate as to whether it wishes to await final disposition of the charges or to discontinue its consideration of the candidate.

(3) *Cases Involving Matters Other than a Criminal Offense or Sexual Misconduct*

If the background check confirms that the candidate's personal history contains matter(s) other than a criminal offense or sexual misconduct, the Stated Clerk shall prepare a summary of the relevant information in the background check and the information provided by the candidate and deliver such summary to the candidate and, as applicable, the COM chair and the PNC chair. Upon request of the members of the PNC chair, the Stated Clerk shall provide copies

of specific documents to the members of the PNC for review during a PNC meeting attended by the Stated Clerk. At the conclusion of such meeting, the Stated Clerk shall collect all copies of such documents from the PNC members and shall destroy them.

The Stated Clerk, the Executive Presbyter, the COM Chair, and the PNC chair (in the case of a candidate seeking installation in a parish) shall determine whether the person's candidacy will continue, based on its consideration of all relevant factors, including, but not limited to, the following:

- (a) The nature and seriousness of the matter;
- (b) The relationship of the matter to the purpose of the church;
- (c) The extent to which call or employment might offer the opportunity to engage in similar activity;
- (d) The age of the candidate at the time of her/his commission of the crime or engagement in the activity that is the subject matter of the proceeding;
- (e) The time elapsed since the candidate's last engagement in the activity that is the subject of the engagement; and
- (f) Other evidence of the candidate's fitness including letters of recommendation from law enforcement, prosecution, probation, or other persons of good community standing and reputation who may have been in contact with the candidate.

(4) *Inconsistencies in Employment or Education Information*

If the background check confirms that the candidate's personal history is inconsistent with the educational or employment information provided by the candidate, the Stated Clerk shall advise the COM chair, the candidate and, if applicable, the chair of the PNC, of that fact in writing and shall deliver to them copies of the background check, all documents provided by the candidate, and other relevant information. The Stated Clerk, the Executive Presbyter, the COM Chair, and the PNC chair (in the case of a candidate seeking installation in a parish) shall determine whether the person's candidacy will continue, based on its consideration of all information received, including but not limited to the following factors:

- (a) The nature and seriousness of the inconsistency;
- (b) The relationship of the inconsistency to the purpose of the church; and
- (c) Other evidence of the person's fitness or veracity including letters of recommendation from persons of good community standing and reputation.

**F. Timing of Background Check**

1. *Candidate seeking installation in a church:* At the request of a PNC, the Executive Presbyter makes presbytery-to-presbytery reference checks on the candidate the PNC wants to interview. The PNC selects its top candidate. The selected candidate is informed that a background check will need to be performed before proceeding any further. The PNC sends the candidate's name, email address, and a copy of the candidate's Personal Information Form to the Stated Clerk, who then sends to the candidate a form requesting permission to perform the background check. Once the background check is clear, the Stated Clerk will let the PNC know if it can proceed, and will inform the COM chair and the Examinations Task Force chair that there is a candidate to examine. This process also applies to Teaching Elders transferring within the bounds of the Presbytery and to Ruling Elders being commissioned.
2. *Candidate seeking membership not in connection with installation in a church:* Background checks will be performed at the time the person submits his/her name for membership. A presbytery-to-presbytery reference check will be done first. If cleared, the candidate, or sponsoring entity / employer shall provide the Stated Clerk a fully-executed authorization and release form, and a copy of the candidate's Personal Information Form.

If the background check is clear, the candidate will be examined by the COM Examinations Task Force. The Examinations Task Force will make a recommendation to the COM regarding the candidate's membership in the Presbytery of Middle Tennessee.

*"To those called to exercise special functions in the church—deacons, ruling elders, and ministers of the Word and Sacrament—God gives suitable gifts for their various duties. In addition to possessing the necessary gifts and abilities, those who undertake particular ministries should be persons of strong faith, dedicated discipleship, and love of Jesus Christ as Savior and Lord. Their manner of life should be a demonstration of the Christian gospel in the church and in the world. They must have the approval of God's people and the concurring judgment of a council of the church." G-2.0104a.*

The Committee on Ministry is guided by the Book of Order in its work, and seeks to ensure the best leadership for the Presbytery of Middle Tennessee.

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