

Justice Making: The Church Responds to Clergy Misconduct

A Companion Piece to

Ministerial Sexual Misconduct Policy and Procedure

I. Introduction

A Mennonite Polity for Ministerial Leadership guides the work of conferences in granting credentials, and describes appropriate behavior for pastors. The Polity recognizes the complimentary roles of conference and congregation, the former in granting credentials, the latter as the employer responsible for job descriptions, hiring and termination. Both conferences and congregations have had to deal with the trauma of clergy misconduct. The church learned from experience and so, policies and procedures were adopted to deal with this issue.

In 2000, a new procedural document, *Ministerial Sexual Misconduct Policy and Procedure* (“Misconduct Procedure”) was adopted by the denomination to replace the earlier document *Guidelines for Discipline*. However, unlike the earlier document, the *Misconduct Procedure* focused solely on a procedure for determining guilt or acquittal. This companion piece addresses support, accountability, discipline (at times referred to as sanction or sanctions), and other issues not addressed fully in the Misconduct Procedure.

This companion piece complements the Misconduct Procedure by giving direction and counsel to Ministerial Leadership Committees and congregations as they deal with misconduct issues. Its goal is to provide justice-making for everyone concerned.

II. Why special policies and procedures are needed

Matthew 18:15-20 illustrates ways that an aggrieved person may be heard within the church. Depending on circumstances, some complaints against a credentialed leader may be raised and resolved with the relative informality of the procedure described in Matthew 18.

Sometimes, however, a minister is accused of misconduct that calls into question the ability of the minister to lead with integrity. Then the Ministerial Leadership Committee that credentials the accused must learn the facts and take action, if warranted.

The action of a Ministerial Leadership Committee is guided by the policy adopted by the denomination, namely:

Ministerial Sexual Misconduct Policy: A minister shall not enter into sexualized behavior with a person with whom the minister has a professional relationship. A minister is always responsible to prevent such behavior. The conference sanctions (disciplines) ministers who engage in such misconduct.

A further suggested Code of Sexual Ethics for Ministers is shown in Attachment 1.

A serious offense occurs when a minister engages in sexualized behavior with one with whom the minister has a professional relationship. This offence is more than just a sexual offense. A minister’s credentials confer authority and access. Persons seek the counsel of ministers in times of stress or crisis. A minister who engages in sexualized behavior within a professional

relationship abuses the minister's power and access. Examples of actions that a minister must avoid are shown in Attachment 2.

A complainant should not be expected to go alone to an accused minister to complain of sexual misconduct, since the alleged misconduct also involves an abuse of power. A complainant who proceeds alone or without a more formal procedure could be at risk of further abuse. In Matthew 25:31-46, the church is commissioned to hear cries of the powerless. The church is called to hear complainants in a setting that affords safety.

The church also must provide accused ministers with a safe place for facts to be determined when an allegation is made. Justice and compassion are due both a complainant and an accused. The church has struggled especially with fact finding about complaints of ministerial sexual misconduct. Therefore the Misconduct Procedure provides for these steps to address a complaint: (See Procedure document for more detail.)

- *Investigation* and report to Ministerial Leadership Committee.
- *Ministerial Leadership Committee may bring charge of misconduct.*
- *Response* by accused.
- *Fact-finding meeting* conducted by Ministerial Leadership Committee's investigators.
- *Fact-finding report* to Ministerial Leadership Committee.
- *Judgment* by Ministerial Leadership Committee.
- *Sanctions/Disciplines* (if guilty) by Ministerial Leadership Committee.

Because the Misconduct Procedure addresses complaints against ministers, it may need to be adapted for complaints against other leaders (see below). In all cases, those who are responsible for fact-finding must determine whether the accused is serving an organization with a grievance procedure or some other procedure that must or could be followed to respond to a complaint.

Use of the Misconduct Procedure is not limited, however, to complaints that allege sexual misconduct. The Misconduct Procedure may provide a helpful framework for any complaint of ministerial misconduct that may be too complex to resolve through the more informal steps described in Matthew 18.

When a complaint of misconduct is raised, the church must resist the temptation to avoid negative publicity. Confronting an accused minister with a complaint and with disciplinary action, when warranted, is a pastoral act of the church. If wrongdoing has occurred, confronting it may avoid a recurrence. Confronting wrongdoing also allows for the possibility of repentance and God's healing gift, both for the guilty as well as any possible victims. In working for God's justice the church shares God's grace.

III. Definitions (See Misconduct Policy for fuller list of definitions)

Finding: A determination of whether it is more likely than not that a pastor engaged in alleged misconduct. This factual determination is the basis for the Ministerial Leadership Committee's determination of guilt or acquittal of the accused.

Support person: A person appointed by the Ministerial Leadership Committee, in consultation with the complainant or the accused, to make sure that person understands the process and is kept informed and treated fairly in the process. The support person is not an advocate to argue on behalf of anyone.

Accountability group: A group formed by the Ministerial Leadership Committee to walk with a person found guilty of misconduct, monitoring compliance with disciplines.

IV. Support: During and After the Process

When misconduct is alleged, families, congregations, and others may need support. Leaders of the conference and congregation should insure that assistance and support are provided. Do not assume that assistance is not needed if not asked for. Congregations particularly, may not ask for the assistance they need.

Complainant & Family: Take steps to insure that practical, emotional counseling and pastoral support is available. A special support group might be formed to meet with the complainant while maintaining appropriate confidentiality. If persons who otherwise would provide pastoral care cannot do so, offer alternative pastoral support. Encourage personal counseling or therapy when that may be helpful. Assist in identifying competent counseling resources and obtaining financial assistance for counseling when needed. Listen to the spouse and family, and provide the love and compassion of the church.

Accused & Family: While the reaction of the accused and the accused's family may vary greatly, it is important that supports be offered. If an accused denies the charges, the family may rally in denial as well. In such cases support may be refused. Or the family may turn against the accused, in which case supports for all may be needed. Whatever the response, appropriate steps should be taken to offer support systems for the accused and their family. This might include counseling resources, support groups, etc. Those involved should know that they are not abandoned by the church, even if they refuse help.

The Congregation: The conference should assist a congregation in providing pastoral leadership and care when a minister is accused of misconduct. While a complaint is being investigated, it may be advisable for the governing body of the congregation (or other employer) to grant the accused a non-disciplinary leave of absence from all responsibilities as minister, without prejudice and with pay. This is particularly true if the allegations are of a sexual nature.

A representative of the conference should explain to the congregation how the Misconduct Procedure is used to conduct an investigation, determine facts, impose disciplines when warranted, and permit appeal by the accused. It is important to keep the congregation informed of the relevant facts, in order to help preclude rumors.

After a determination of guilt or acquittal has been made, a conference representative should meet with the leadership bodies of the congregation (and in most cases, with the congregation)

to listen to concerns and to describe next steps. Some individuals may support a guilty minister and call for Christian forgiveness so that life promptly can move on. Others may support a complainant and call for condemnation. Many may be angry because of what the congregation is experiencing. In this environment, conference representatives are called to exercise good judgment, and encourage others to do likewise. Outside facilitators, beyond the conference may also be helpful, since conference can also be seen as part of the issue.

The effects of clergy misconduct on a congregation are deep and far-reaching. It is important that the conference provides appropriate ongoing care for a congregation, and recognizes the role that an “after-pastor” plays. Use of an intentional interim, and care in placing the next pastor, are important in the ongoing healing of a congregation following a case of clergy misconduct.

V. Addressing Judgments

A. If the Judgment is Acquittal

If a minister is acquitted of misconduct, the Ministerial Leadership Committee must recognize its responsibility to explain its action, and continue to offer support to all parties. The complainant, accused, and congregation should all be informed of the action taken, along with reasonable explanation. Ongoing support for the accused pastor and for the congregation may be necessary in order for fruitful ministry to be restored. Sensitivity to feelings, and ongoing communication with the complainant are also important.

B. If the Judgment is Guilty

If a minister is found guilty of misconduct, the credentialing conference may discipline by reprimand, probation, suspension of privileges and duties, withdrawal of credentials, or other disciplinary action. These actions are described below. Before the Ministerial Leadership Committee imposes disciplines, a representative of the committee may need to consult with the congregation or other employer of the accused, since such disciplines may affect continuing employment. However, job continuation should not be a deciding factor in discipline.

1. *Reprimand.* Reprimand is a serious reproof of a minister. It follows a judgment of guilt of wrongdoing and the Ministerial Leadership Committee’s determination that the minister has accepted responsibility for the violation. The committee will need to determine if a reprimand is made public.
2. *Probation.* When the Ministerial Leadership Committee imposes probation, it identifies specific expectations and time limits. The committee may revise these expectations and time limits during the probationary period. During the probationary period, the committee may require restitution and may require the minister to undergo counseling, therapy, supervision and accountability to a group. Because of a conference minister’s broader responsibilities, a conference minister or other conference overseer shall not serve on an accountability group to which the minister is responsible. Before probation is terminated, the Ministerial Leadership Committee shall review the minister’s compliance and evaluate whether any other action should be taken regarding the minister’s credentials or service.

When a conference Ministerial Leadership Committee has placed a minister on probation, the conference shall note such action in the ministerial registration records of the individual. The notation shall be “ordained probationary” or “OPR.” This notation shall be removed only if the Ministerial Leadership Committee specifically authorizes.

3. *Suspension.* Credentials may be suspended if the Ministerial Leadership Committee determines that a minister has not taken appropriate responsibility for wrongdoing or believes that the minister should make restitution or take other action before functioning as a minister. During suspension, a minister may be required to participate in counseling, therapy, accountability to a group, and professional psychological assessment. When the committee deems it appropriate, suspension shall not end until the committee has received reports that the committee deems satisfactory from a counselor or therapist and from an accountability group. Suspension causes the ministerial credential to be inactive and a minister is not “ordained in good standing” while a suspension is in effect.

Only when the Ministerial Leadership Committee informs a minister that a period of suspension has ended may the minister again function as a credentialed minister.

During suspension, a minister shall be granted a leave of absence from all ministerial positions. While suspended, a minister shall not engage in any ministerial action representing any congregation or the broader Mennonite Church. The minister shall not preach, teach, lead events such as baptism, serve the Lord’s supper or provide pastoral care while suspended.

Suspension shall not last longer than two years. At the conclusion of suspension, credentials shall be reinstated or withdrawn by the Ministerial Leadership Committee.

When the Ministerial Leadership Committee has suspended a minister, the committee shall note such action on the ministerial registration records of the individual. The notation shall be “ordained suspended” or “OSU.” This notation shall be removed only if the Ministerial Leadership Committee specifically authorizes.

4. *Withdrawal of credentials.* The Ministerial Leadership Committee may withdraw credentials if it determines that a guilty individual is not suitable to function as a minister. Such withdrawal requires termination of ministerial employment. If the minister had a role in the broader church beyond the conference, the committee shall describe what are acceptable and unacceptable activities and responsibilities for the individual in the future.

A minister whose credentials are withdrawn shall not engage in any ministerial actions involving a local congregation or the broader church. Such an individual shall not preach, teach, lead in events such as baptism or the Lord’s supper or provide pastoral care. Such an individual continues to be subject to the authority of the Ministerial Leadership Committee.

When ministerial credentials are withdrawn, such action shall be noted on the ministerial registration records of the individual. The notation shall be

“ordained/withdrawn” or “OWI.” This notation shall never be removed from the ministerial registration record of the individual. Only a new ordination could grant ministerial credentials to a person from whom ministerial credentials have been withdrawn.

5. *Prohibition from acting as a minister in the conference.* If the credentials of a guilty minister were not granted or authorized by the conference of the Ministerial Leadership Committee, the committee may, nevertheless, prohibit the minister from engaging in any ministerial activities within the conference. This could be the case if credentials are held by another denomination or credentialing body.
6. *Other disciplinary action.* When appropriate, the Ministerial Leadership Committee may impose disciplines not described above. In such cases, the committee shall explain to the minister why a particular discipline was chosen.

VI. Accountability

If a minister is found guilty of misconduct, the conference generally should appoint an Accountability Committee. This committee should carry the ongoing task of monitoring compliance with the terms as laid out by the Ministerial Leadership Committee, to which it is responsible. Some of the possible requirements might be:

Psychological evaluation. Choose a therapist or counselor to meet with the minister, provide a psychological evaluation, and advise the accountability committee. Obtain the minister’s written consent to meet with this professional and authorize release to the accountability committee of all past and future evaluation and therapy reports. Reflect on whether the professional’s advice is consistent with the church’s disciplinary goals.

Rehabilitation. Rehabilitation may include treatment, steps to prevent relapse, relationship to the congregation, and (in some cases) relationship to complainants.

Restitution. Restitution to the victims might include payment for counseling, written statements, etc. This should be agreed upon in conversation with the victim, whether individuals or congregations.

Costs. Determine how the church’s costs for legal counsel, psychological evaluation and therapy shall be handled.

The Accountability Committee should meet with the minister at least monthly to monitor the minister’s compliance with discipline and to further understand the ongoing rehabilitation. The Accountability Committee should make periodic reports to the Ministerial Leadership Committee and make a final report stating whether and on what terms the Accountability Committee believes the minister is capable of effectively representing the church.

VII. Communication

Since the church confers authority by credentialing ministers, it is also important that the church give appropriate information when discipline takes place. The Ministerial Leadership Committee shall be the sole entity responsible to give notice:

- A. To the accused, in writing by personal delivery, (if personal delivery is not possible then by certified mail, return receipt requested) informing of a judgment of guilt or acquittal, and of any disciplines, whether disciplines apply for a stated period or until further notice, when and how the minister shall report regarding compliance, and any other requirements imposed by the committee;
- B. To the complainant, in writing by personal delivery (unless the complainant has waived the right of personal delivery, whereupon notice shall be given by certified mail, return receipt requested), informing of a judgment of guilt or acquittal;
- C. To the congregation (or other employer) in writing to the leadership board, and by arranging for a representative of the Ministerial Leadership Committee to meet with the congregation promptly after the accused and the complainant have been informed;
- D. To the Ministerial Leadership Office of Mennonite Church USA and/or Mennonite Church Canada, in case of guilt when disciplines have been imposed, by letter so stating, including a description of the nature of the misconduct. This should be in addition to the appropriate notation in the database.
- E. To the broader church and public in a manner consistent with the “Meetinghouse Guidelines for Reporting Sexual Misconduct and Other Sensitive News Stories” developed by the editors of Mennonite periodicals. The Ministerial Leadership Committee should be thoroughly familiar with these Guidelines. The following should also be kept in mind.
 - 1. Endeavor to protect the identity of the complainant, when requested
 - 2. Public statements should not be made to the congregation or the media unless specifically approved by an authorized representative of the Ministerial Leadership Committee
 - 3. Discourage parties directly involved from participating in media interviews.
 - 4. Limit disclosure of the details of alleged or determined misconduct, and report instead the findings of acquittal or guilt, including when guilty the nature of the misconduct.

VIII. Forgiveness and restoration to fellowship are goals.

Forgiveness and restoration to the fellowship of the church are always goals. Restoration to a ministerial leadership office in the church calls for additional discernment and does not necessarily follow confession and forgiveness. Furthermore, forgiveness will not always lead to a minister’s restored fellowship in the congregation where misconduct occurred.

Restoration to a position of leadership should only be considered after a person has complied with the terms of their accountability plan. Even then, restoration should not be assumed or guaranteed. Only if the Ministerial Leadership Committee has some assurance that behaviors will not be repeated should restoration to leadership be considered.

If restoration to a leadership position is allowed, the Ministerial Leadership Committee may wish to set up additional accountability and support structures for a time in order to help the person’s reentry into ministry, and to provide safeguards for all involved. These should be reviewed on a regular basis, and may be continued as needed and appropriate.

IX. Record Keeping

Any actions taken in regards to discipline, and restoration, should be recorded in a minister's permanent file and noted in the database. While forgiveness and restoration are the goals, those actions do not negate the misconduct having taken place. If restored to ministry, a minister should disclose such disciplinary actions to any future employer. This is important for the ongoing integrity and accountability of all persons involved.

In addition, a Secure Personnel File related to a specific case of misconduct should be assembled and kept in a secure place, either in the Conference office, the office of the Conference lawyer, or at the Ministerial Leadership Offices of Mennonite Church USA or Canada. This file should contain all relevant documents related to the investigation and judgment of the case and should be kept separate from general files. This file should be kept at least during the minister's lifetime and can only be accessed by request of a conference Ministerial Leadership Committee, or designated representative, if the case is reopened or if the minister involved faces other allegations of misconduct. Any other copies of information or documents not considered relevant should be destroyed.

X. Non-Sexual Misconduct

Misconduct can be alleged for other than sexual behaviors. A Mennonite Polity for Ministerial Leadership lists numerous other items that could be grounds for misconduct charges (Pg. 125). Since complainants in these cases may not be directly involved in the misconduct, it may be necessary to modify the procedures outlined in the Misconduct Procedure. A possible procedure is outlined below, recognizing that each case may provide different needs.

- A. *Investigation* and report to Ministerial Leadership Committee. Either the Ministerial Leadership Committee or an appointed group will determine if there is enough evidence to bring a formal charge.
- B. A *Charge* of misconduct may be brought by the Ministerial Leadership Committee. This charge should be specific and reference documents of the church that prohibit such actions. The charge should be presented to the accused in writing.
- C. *Response* by accused, in writing.
- D. *Fact-finding* conducted by Ministerial Leadership Committee or their appointed investigators. It is important to have clear documentation and rationale for the decisions made.
- E. *Fact-finding report* to Ministerial Leadership Committee.
- F. *Judgment* by Ministerial Leadership Committee of either guilt or acquittal.
- G. *Sanctions/Disciplines* (if guilty) by Ministerial Leadership Committee.

In all this process, notification procedures and safeguards for fairness noted in the Misconduct Procedure should be followed as appropriate.

XI. Non-Credentialed Leaders

We know that other leaders in the church are also capable of misconduct. Anyone in a position of authority, such as a SS teacher, deacon, or elder can misuse power to abuse someone. The procedures of Matthew 18 may serve to address certain issues, but when the misconduct involves misuse of power, such procedures may only serve to re-victimize the offended.

The process outlined here, and in the Misconduct Procedure document, can guide a congregation in dealing with such a case. However, most congregations will not have the experience or expertise to handle such cases on their own, and should call on conference representatives or other qualified outside persons to help in the process. Obviously it is important to follow clear procedures. While disciplines may be different for non-credentialed persons, clear guidelines for behavior and safeguards for potential victims must be in effect, particularly if the offense is of a sexual nature. If sexual abuse against children is involved, the church has a moral obligation, and possibly a legal obligation, to inform the proper authorities.

XII. Prevention

While it will be impossible to prevent all cases of misconduct, the church is becoming increasingly aware of steps to lessen the possibility of it occurring. Such steps are also important to lessen the likelihood of liability when such cases do occur.

- A. *Policies and Procedures:* Just as it is important for denominations and conferences to have policies and procedures in place for dealing with misconduct, so congregations are increasingly realizing the importance of policies and procedures related to abuse issues. These serve as clear guidelines for staff and volunteers, and inform people of what to do if abuse is suspected.
- B. *Assessment and Hiring:* It is becoming far more common for congregations and conferences to require screening processes. This is true for pastors, other hired staff, and even volunteers, particularly those working with children. These screening processes can include interviews, references, criminal record checks, and fingerprinting
- C. *Training and Education:* All pastors should have some training regarding the issues of clergy misconduct. Some insurance companies are calling for such training, for all staff and volunteers, before they will issue liability insurance to cover misconduct or abuse. Likewise congregations will do well to be informed of the issues of abuse and systematically offer education to their members. Insurance companies and organizations listed in the bibliography are good sources of materials for education.

XIII. Bibliography and Resources

While this is not an exhaustive list, the resources cited here have been helpful in preparing this document, or are helpful resources for dealing with issues raised.

A. Resources

Center for the Prevention of Sexual and Domestic Violence (CPSDV), 2400 North 45th St., Suite 10, Seattle, WA www.cpsdv.org

Ed Kauffman, Conference Minister, Central Plains Mennonite Conference, Freeman, SD. Ed has training from CPSDV to lead workshops on prevention of clergy misconduct, and is knowledgeable about other resources available.

Interfaith Sexual Trauma Institute, St. Johns Abbey and University, Collegeville, MN 56321 www.osb.org/isti

Ministerial Leadership Offices, Mennonite Church USA and Mennonite Church Canada
The denominational leadership offices have resources and can direct you to persons or material related to issues of abuse.

Numerous Insurance Companies, such as Guide One, offer materials related to abuse. Check with your liability carrier for information.

The Alban Institute, Suite 1250 west, 7315 Wisconsin Ave., Bethesda, MD 20814-3211
www.Alban.org

B. Books & Periodicals

Cooper-White, Pamela *The Cry of Tamar: Violence Against Women and The Church's Response* Fortress Press, Minneapolis, MN

Fortune, Rev. Dr. Marie, ed. *Journal of Religion and Abuse*, Haworth Press, Binghamton, NY

Hammar, Richard R, Steven W. Klipowicz and James F. Cobble, Jr. *Reducing the Risk of Child Sexual Abuse in Your Church* Christian Ministry Resources, Matthews, NC 1993
Available in book, video and audiocassette.

Hopkins, Nancy Myer and Mark Laaser, ed. *Restoring the Soul of a Church* Alban Institute, Bethesda, MD 1995 A comprehensive look at issues surrounding clergy misconduct

Mennonite Central Committee has produced several packets of material related to issues of abuse and misconduct. Contact your regional office or the national office for more information.

Swagman, Beth *Preventing Child Abuse: A Guide for Churches* CRC Publications, Grand Rapids, MI 1997 A practical guide from the Christian Reformed Church

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Attachment 1

CODE OF SEXUAL ETHICS FOR MINISTERS

1. Ministers are representatives of God and the church, and as such are to be agents of healing and redemption. They are aware that a minister's sexual exploitation or abuse is an abuse of trust, an abuse of power and an abuse of the authority of a pastoral position. They accept their responsibility to define and maintain appropriate boundaries within their ministerial relationships.
2. Ministers are aware that their personal relationships and lives must also reflect healthy morals and sexuality. Spouse or child abuse, use of pornography, or other forms of immorality may also lead to discipline.
3. Ministers are aware that discipline for sexual misconduct and immorality involves both their ministerial credentials and their vocational status.
4. Ministers are aware of and willing to abide by church policies and disciplinary procedures to address sexual misconduct.
5. Ministers accept responsibility to call each other to account and to exercise biblical responsibility to confront colleagues concerning perceptions of inappropriate sexual relationships.
6. Ministers are aware of their calling as servants of God under the lordship of Jesus Christ, and from that they accept their responsibility for and accountability to people entrusted to their care.
7. Ministers accept the obligation to disclose information regarding previous sexual misconduct for which they have been called to account prior to formal candidacy for a new ministry position.

As a minister of Jesus Christ and as a representative of the church within its office of ministry, I accept and subscribe to these affirmations.

Date: _____

Witness _____ Signed: _____

Witness _____

For a boarder treatment of Ethics in Ministry, refer to A Mennonite Polity for Ministerial Leadership, Section V., page 106ff.

Attachment 2

In 1995 the General Conference Mennonite Church and the Mennonite Church adopted a *Confession of Faith in a Mennonite Perspective*. In 1996 those denominations also published *A Mennonite Polity for Ministerial Leadership*. Refer to those documents for a description of the church's current ethical guidelines regarding sexuality.

A minister who engages in sexualized behavior within a professional relationship abuses the minister's power and authority. Within a professional relationship, a minister shall not permit sexualized behavior that includes actions such as the following.

- Unusual attention from a minister, including such things as gifts, frequent social telephone calls, letters, private visits or the maintenance of a special "spiritualized" partnership.
- Flirtatious propositions, talk or innuendo.
- Graphic or degrading comments about another person's appearance, dress or anatomy.
- Display of sexually suggestive objects or pictures.
- Sexual jokes or offensive gestures.
- Intrusive sexual or other questions about the person's personal life.
- Explicit descriptions of a minister's own sexual experiences.
- Abuse of familiarities or diminutives such as "honey," "baby" or "dear."
- Inappropriate or unwanted physical contact such as touching, hugging, pinching, patting or kissing.
- Whistling or catcalls.
- Leering.