

Presbytery of Detroit
Writing Sexual Misconduct
Policies
And
Child Protection Policies

March 22, 2014

Pastoral Response Team
Of the
Committee on Ministry

I. Why these
policies?

Ed Koster

Moral obligations

- Duty to protect our congregations from harm.
- Heightened duty to protect our children.
 - Distinction between child protection and sexual misconduct policies

Book of Order

"All councils shall adopt and implement a sexual misconduct policy." G-3.01066. Adopted 2010

Distinction between Church and civil procedures.

- Church judicial process under the Rules of Discipline (D-10) for any kind of sexual misconduct with anyone
 - If against any teaching elder, submit a written report of it to the presbytery Stated Clerk
 - If against any other presbyterian, submit a written report to the clerk of session.

Distinction between Church and civil procedures.

Civil process comes in where there is any kind of crime, any kind of child abuse, any kind of liability for damages.

- Any kind of abuse against a child, report as noted below.
- If any kind of assault or crime against any person, civil law enforcement.

Legal obligations

- o The Book of Order says all teaching elders, ruling elders, deacons and certified educators are mandatory reporters. G-4.0302
- o Mandatory reporting law
 - ❖ Applies to children plus adults who are not competent because of disability or age
 - ❖ Standard of proof: reasonable cause to suspect
 - ❖ Do NOT conduct your own investigation.
 - ❖ Report to child protection agency of the county, or local law enforcement. (They will conduct the investigation.)
 - ❖ Insufficient to just report it to your superiors.
 - ❖ Reporters are protected from civil liability

Liability

- Criminal liability
 - o Minimal where only adults are involved. Except to the degree that failure to report may be seen as some kind of interference with justice or an investigation.
 - o Where children are involved in any kind of abuse, you can be prosecuted for failure to report, or to ensure your report reaches the proper authorities.
- Civil liability
 - o Negligence
 - o Negligent Hiring
 - o Negligent supervision
- DUTY

Consequences of failure

- Cost of Defense
- Cost of damages
