



**The Downtown United Presbyterian Church
121 North Fitzhugh Street
Rochester, NY 14614**

SEXUAL ETHICS POLICY

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INTRODUCTION TO SEXUAL ETHICS POLICY

We live in a society where physical, sexual and emotional abuses are unfortunate realities. We believe all people are created by God and are valued equally. We must respect the worth and dignity of all humans. We also believe in justice for all. Sexual misconduct is abuse, especially of power and trust, and therefore unjust. It cannot be condoned or tolerated.

The purposes of this Policy are:

- to help prevent and to respond to physical, sexual and emotional abuses;
- to ensure there is no conspiracy of silence surrounding sexual misconduct within the church community.
- to establish procedures for the church staff, members and volunteers for making and responding to allegations of betrayal, sexual misconduct;
- to identify areas in which healing and reconciliation can be supported within the church following any occurrence of sexual misconduct; and
- to take legal action if necessary.

Nothing in this policy shall prejudice or discourage victims or witnesses from bringing a matter to the authorities when they believe a crime has been committed.

It is our sincere hope and prayer that this policy will provide an atmosphere of caring, safety, and spiritual development of all persons within our church community.

Purpose

It is the policy of the Session of Downtown United Presbyterian Church (DUPC) that all who participate in our mission and ministry have the right, as persons created by God, to be safe and free from harm in this church. Any behavior that constitutes sexual misconduct is contrary to our commitment to serve Jesus Christ, is ethically wrong, is prohibited in this church's work and life and will not be tolerated. When committed in the context of a ministerial relationship, sexual abuse betrays a sacred trust, violates the purpose of the ministerial role, and exploits people who are vulnerable. This church is committed to preventing sexual misconduct, and will take necessary actions to prevent its occurrence. This church is committed to intervening when sexual misconduct occurs, and will take the necessary corrective actions upon discovery of any incidents.

Note

Section 1 applies to employees, applicants for employment, interns whether paid or unpaid, contractors and persons conducting business, regardless of immigration status. The term "employees" refers to this collective group.

Section 2 applies to congregants, parishioners, members, visitors, and volunteers. The term "members" refers to this collective group.

I. THE POLICY – NEW YORK STATE MANDATED

Downtown United Presbyterian Church (DUPC) is committed to maintaining an environment free from sexual harassment. Sexual harassment is a form of workplace discrimination. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of DUPC's commitment to a discrimination-free work environment. Sexual harassment is against the law and all employees have a legal right to a workplace free from sexual harassment and employees are urged to report sexual harassment by filing a complaint internally with The Business Manager, Director of Operations or the Pastor. Employees can also file a complaint with a government agency or in court under federal, state or local anti-discrimination laws.

1. DUPC's policy applies to all employees, applicants for employment, interns, whether paid or unpaid, contractors, and persons conducting business, regardless of immigration status, with DUPC in the remainder of this document, the term "employees" refers to this collective group.
2. Sexual harassment will not be tolerated. Any employee or individual covered by this policy who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action (e.g., counseling, suspension, termination).
3. Retaliation Prohibition: No person covered by this Policy shall be subject to adverse action because the employee reports an incident of sexual harassment, provides information, or otherwise assists in any investigation of a sexual harassment complaint. DUPC will not tolerate such retaliation against anyone who, in good faith, reports or provides information about suspected sexual harassment. Any employee of DUPC Who retaliates against anyone involved in a sexual harassment investigation will be subjected to disciplinary action, up to and including termination. All employees, paid or unpaid interns, or non-employees working in the workplace who believe they have been subject to such retaliation should inform a supervisor, The Business Manager, or the Pastor. All employees, paid or unpaid interns or non-employees who believe they have been a target of such retaliation may also seek relief in other available forums, as explained below in the section on Legal Protections.
4. Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject DUPC to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Employees of every level who engage in sexual harassment, including managers and supervisors who engage in sexual harassment or who allow such behavior to continue, will be penalized for such misconduct.
5. DUPC will conduct a prompt and thorough investigation that ensures due process for all parties, whenever management receives a complaint about sexual harassment, or otherwise knows of possible sexual harassment occurring DUPC will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment is found to have occurred. All employees, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

6. All employees are encouraged to report any harassment or behaviors that violate this policy. DUCP will provide all employees a complaint form for employees to report harassment and file complaints.
7. Supervisors are **required** to report any complaint that they receive, or any harassment that they observe or become aware of, to the Business Manager, The Director of Operations or the Pastor.
8. This policy applies to all employees, paid or unpaid interns, and non- employees, such as contractors, subcontractors, vendors, consultants or anyone providing services in the workplace, and all must follow and uphold this policy. This policy must be provided to all employees and should be posted prominently in all work locations to the extent practicable (for example, in a main office, not an offsite work location) and be provided to employees upon hiring.

What is “Sexual Harassment”?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment is unlawful when it subjects an individual to inferior terms, conditions, or privileges of employment. Harassment need not be severe or pervasive to be unlawful, and can be any harassing conduct that consists of more than petty slights or trivial inconveniences. Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual’s sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual’s employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual’s sex. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, which interfere with the recipient’s job performance.

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment.

Any employee who feels harassed should report so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

Examples of Sexual Harassment

The following describes some of the types of acts that may be unlawful sexual harassment and that are strictly prohibited:

- Physical acts of a sexual nature, such as:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another employee's body or poking another employee's body;
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions, such as:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments;
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks or jokes, or comments about a person's sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace.
- Hostile actions taken against an individual because of that individual's sex, sexual orientation, gender identity and the status of being transgender, such as:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the individual's ability to perform the job;
 - Sabotaging an individual's work;
 - Bullying, yelling, name-calling.

Who Can Be a Target of Sexual Harassment?

Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees, including independent contractors, and those employed by companies contracting to provide services in the workplace. Harassers can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor.

Where Can Sexual Harassment Occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage by employees can constitute unlawful workplace harassment, even if they occur away from the workplace premises, on personal devices or during non-work hours.

Retaliation

Unlawful retaliation can be any action that could discourage a worker from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Such retaliation is unlawful under federal, state, and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report harassment.

Even if the alleged harassment does not turn out to rise to the level of a violation of law, the individual is protected from retaliation if the person had a good faith belief that the practices were unlawful. However, the retaliation provision is not intended to protect persons making intentionally false charges of harassment.

Reporting Sexual Harassment

Preventing sexual harassment is everyone’s responsibility. DUCP cannot prevent or remedy sexual harassment unless it knows about it. Any employee, paid or unpaid intern or non-employee who has been subjected to behavior that may constitute sexual harassment is encouraged to report such behavior to a supervisor, the Business Manager, the Director of Operations or the Pastor.

Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behavior to a supervisor, the Business Manager, Director of Operations or the Pastor.

Reports of sexual harassment may be made verbally or in writing. A form for submission of a written complaint is attached to this Policy, and all employees are encouraged to use this complaint form. Employees who are reporting sexual harassment on behalf of other employees should use the complaint form and note that it is on another employee’s behalf.

Employees, paid or unpaid interns or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

See also Section II for specific directions on filing allegations at DUPC.

Supervisory Responsibilities

All supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, **are required** to report such suspected sexual harassment to the Business Manager, Director of Operations or the Pastor.

In addition to being subject to discipline if they engaged in sexually harassing conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline for engaging in any retaliation.

Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner, and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. The investigation will be kept confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded due process, as outlined below, to protect their rights to a fair and impartial investigation.

Any employee may be required to cooperate as needed in an investigation of suspected sexual harassment. DUPC will not tolerate retaliation against employees who file complaints, support another's complaint or participate in an investigation regarding a violation of this policy.

While the process may vary from case to case, investigations should be done in accordance with the following steps:

- Upon receipt of complaint, the Director of Operations will conduct an immediate review of the allegations, and take any interim actions (e.g., instructing the respondent to refrain from communications with the complainant), as appropriate. Complaints may be filed in any form.
- If documents, emails or phone records are relevant to the investigation, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.

- Interview all parties involved, including any relevant witnesses;
- Create a written documentation of the investigation (such as a letter, memo or email), which contains the following:
 - A list of all documents reviewed, along with a detailed summary of relevant documents;
 - A list of names of those interviewed, along with a detailed summary of their statements;
 - A timeline of events;
 - A summary of prior relevant incidents, reported or unreported; and
 - The basis for the decision and final resolution of the complaint, together with any corrective action(s).
- Keep the written documentation and associated documents in a secure and confidential location.
- Promptly notify the individual who reported and the individual(s) about whom the complaint was made of the final determination and implement any corrective actions identified in the written document.
- Inform the individual who reported of the right to file a complaint or charge externally as outlined in the next section.

Legal Protections And External Remedies

Sexual harassment is not only prohibited by DUPC but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at DUPC, employees may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

In addition to those outlined below, employees in certain industries may have additional legal protections.

State Human Rights Law (HRL)

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court.

Complaints with DHR may be filed any time **within one year (three years beginning Aug. 12, 2020)** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to DUPC does not extend your time to file with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400 or visit: www.dhr.ny.gov.

Contact DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties.

Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed.

Contact the EEOC by calling 1-800-669-4000 (TTY: 1-800-669-6820), visiting their website at www.eeoc.gov or via email at info@eeoc.gov.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists. For example, employees who work in New York City may file complaints of sexual harassment with the New York City Commission on Human Rights. Contact their main office at Law Enforcement Bureau of the NYC Commission on Human Rights, 22 Reade Street, 1st Floor, New York, New York; call 311 or (212) 306-7450; or visit www.nyc.gov/html/cchr/html/home/home.shtml.

Contact the Local Police Department

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

SCREENING PRACTICES

All volunteers listed on Appendix D are required at the beginning of their service to sign Appendix D **ACCEPTANCE FORM FOR VOLUNTEERS** that certifies that they have read and understand this Policy regarding sexual misconduct.

All volunteers listed on Appendix E are required at the beginning of their service to sign Appendix E **ACCEPTANCE AND RELEASE FORM FOR VOLUNTEERS WORKING WITH CHILDREN AND YOUTH** which certifies that they have read and understand the Policy, and permits the release of information regarding convictions or church complaints of sexual misconduct.

All employees are required at the beginning of their service to sign Appendix F **ACCEPTANCE AND RELEASE FORM FOR EMPLOYEES** that certifies that they have read and understand the Policy and permits the release of information regarding civil or criminal convictions of sexual misconduct.

The church will review the fact that a person has a criminal or church record of sexual misconduct or has admitted prior sexual misconduct of any kind, to determine if that person should be barred from attendance, membership, employment, or any volunteer position at DPC, and will also consider legal requirements including but not limited to the provisions of the NYS Corrections Law which express the New York State public policy relating to employment decisions based on criminal convictions.

EDUCATION/PREVENTION

Prevention is always preferable to dealing with the crisis of an incident of sexual misconduct. Efforts shall be made to prevent sexual misconduct by educating staff and congregation about why this policy is needed, and its content, and by instituting guidelines for clergy, other staff and volunteers.

The church works for prevention of sexual misconduct by: educating the congregation regarding abuse of power in relationships; encouraging open discussion of sexual misconduct and domestic violence in our society; empowering victims to come forward without fear of retribution; educating the congregation regarding reactions to misconduct; and by advocating treatment programs for abusers to prevent continuing abuse of victims.

COMPANION DOCUMENTS

This Policy and its procedures are designed to be applied in conjunction with the most recent version of the “Policy on Sexual Ethics” of the Presbytery of Genesee Valley, and the Rules of Discipline, *Book of Order* of the Presbyterian Church (USA) as well as the DUPC Child Protection Policy.

STATUTE OF LIMITATIONS

The ability of DPC to respond promptly and justly to sexual misconduct is related in part to the opportunity to receive allegations and gather evidence soon after the occurrence. However, this Policy recognizes the special problems related to discovery and recognition of various forms of sexual misconduct. Child sexual abuse may not be recognized until the victim of abuse reaches adulthood.

Recognition of abuse and willingness to come forward by an adult victim may also be delayed for many years (see *Book of Order* D10.0401.) Time limits will be determined by *The Book of Order* and by civil and criminal law.

USE OF THE POLICY FOR PERSONS AND EMPLOYEES WHO ARE NOT MEMBERS OF THE DOWNTOWN UNITED PRESBYTERIAN CHURCH

Persons not under the jurisdiction of the Presbyterian Church (USA), and employees of DPC may bring a complaint against members, or clergy of the DPC, which will be subject to the applicable section of the DPC Sexual Ethics Policy and/or the Rules of Discipline of the *Book of Order* (D-10.0102b) of the Presbyterian Church (USA). (See Part II of this Policy, **PROCEDURES FOR RECEIVING AND RESPONDING TO ALLEGATIONS OF SEXUAL MISCONDUCT, Sections B, and C, page 14.**)

PROVISION FOR DISTRIBUTION AND REVIEW OF THE POLICY

Session shall inform the congregation of the adoption of the Sexual Ethics Policy.

- Copies of the Policy shall be distributed to all persons listed in Appendices D, and E as determined by Session.
- Copies of the Policy will be made available to all members and friends of the congregation, and, especially, parents of all children and youth enrolled in programs of the church, in a manner determined by Session.
- Session shall post the availability of the policy on the church bulletin board.
- The Sexual Ethics Policy shall be reviewed annually by the Pastor, Clerk of Session and Chair(s) of the Personnel Ministry Team. Any changes that are deemed necessary shall be referred to Session for its review and final decision. Additionally, if the Policy is used at any time, the Personnel Ministry Team will evaluate the procedures outlined herein, based on their experience, and make recommendations to the Session for any needed changes.

The Policy shall be distributed to all staff. It shall be reviewed and discussed with all employees on an annual basis at a full staff meeting.

An attorney, who may or may not be a church member, may be consulted, as needed, to assure that the policy and procedures continue to conform to New York State Law and current case law.

II. POLICY AND PROCEDURES FOR RECEIVING AND RESPONDING TO ALLEGATIONS OF SEXUAL MISCONDUCT WHEN THE COMPLAINANT IS A CHURCH MEMBER.

A. WHEN THE ALLEGED VICTIM IS A CHILD OR YOUTH (under age 18)

The care and safety of children and youth participating in the life and worship of the Downtown United Presbyterian Church is our first priority. Any sexual contact of any kind between an adult and a child or youth is unacceptable behavior and will not be tolerated. (See especially definitions of sexual abuse and sexual harassment, pg. 2 and Mandated Reporter, Appendix A, Additional Definitions, pg. 15 in this policy).

Procedures responding to **formal and informal** allegations of child sexual abuse/ harassment will include, but are not limited to:

1. All allegations will be taken seriously.
2. Parent(s) of the child or youth will be notified immediately **by the Clerk of Session (if not the accused) and/or the Pastor (if not the accused)**, if they (the parents) are not the ones bringing the allegations on behalf of the child. If either or both the Clerk of Session and the Pastor are the accused, then notification will be made by the Presbytery Leader.
3. **Appropriate authorities and professionals i.e. police, DUPC attorney, DUPC insurance carrier, the Stated Clerk of Presbytery will be notified immediately by the Clerk of Session (if not the accused) and/or the Pastor (if not the accused). If the Stated Clerk of Presbytery is not available, the Presbytery Leader and/or Chair of Committee on Ministry will be contacted.**
4. Any person who witnesses what he/she believes to be sexual abuse against a child or youth should immediately try to (1) stop the abuse, if possible; (2) and/or call the police; (3) and/or report the incident to the Clerk of Session (if not the perpetrator) and/or the pastor (if not the perpetrator) as soon as possible. The clerk and pastor will immediately contact the appropriate persons named in #3.
5. **Suspected incidents of child/youth sexual abuse should be reported to the Clerk of Session (if not the perpetrator) and/or the Pastor (if not the perpetrator) as soon as possible. The Clerk and Pastor will immediately contact the authorities named above in #3 for consultation on the appropriate course of action.**
6. In order to ensure the safety of the victim or other potential victims, the person accused **or suspected of child abuse** may be temporarily relieved of her/his

church duties until the investigation is completed. After consultation with the persons named in paragraph 3, the Clerk of Session and/or Pastor will bring the matter to Session for its decision regarding the setting aside of duties, and any communications to the congregation.

7. All information and/or actions taken in regard **to allegations or reports** shall be documented and kept on file in the Business Manager's office.

B. PROCEDURE TO FILE AN ALLEGATION OF SEXUAL MISCONDUCT AGAINST A MINISTER (TEACHING ELDER)

1. The procedure to file an allegation of sexual misconduct against a Minister who is a member of the Presbytery of Genesee Valley is covered under The "Policy on Sexual Ethics" of the Presbytery of Genesee Valley (most recently revised version), and Chapter X of the Rules of Discipline (D-10.000ff) of the *Book of Order*. The Presbytery policy may be found on the Presbytery web site and a copy of the *Book of Order* may be found in the church library.
2. The person making the allegation, or someone acting on her/his behalf, shall contact the Stated Clerk of the Presbytery immediately. If the Stated Clerk is not available, the Presbytery Leader and/or the Chair of the Committee on Ministry should be contacted. If the Presbytery Leader and the Chair of the Committee on Ministry are not available, the Presbytery's attorney should be contacted. The names of these persons may be found on the Presbytery's web site or by calling the Presbytery office.
3. **If the alleged victim is a child or youth (under age 18), the appropriate authorities, legal counsel, and the DPC insurance carrier will be notified immediately by the Clerk of Session, along with the Presbytery persons named above.**
4. The person making the allegation, or someone acting on her/his behalf, may choose initially to go to the Pastor (if not the accused), Clerk of Session, a Session member or a member of the Personnel Ministry Team. If such an allegation, written or verbal, is received by any of the above-named persons, they should strongly encourage the person making the allegation to put it in writing and contact the Stated Clerk of the Presbytery immediately! (See paragraph 2 above.)

C. PROCEDURE TO FILE AN ALLEGATION AGAINST A MEMBER OF DOWNTOWN UNITED PRESBYTERIAN CHURCH

1. The procedure to file an allegation of sexual misconduct against a member of the Downtown United Presbyterian Church is covered under Chapter X of the Rules of Discipline (D-10.000ff) of the *Book of Order* and the Sexual Ethics Policy of the Downtown Presbyterian Church.
2. The person making the allegation of sexual misconduct, or someone acting on his/her behalf shall contact the Clerk of Session (if not the accused) and provide a written

statement of the offense (see D-10.0101 and D-10.0102). The Clerk of Session shall follow the procedures outlined in Chapter X Disciplinary Cases of the *Book of Order*, in particular, D-10.0103 and D-10.0201, which mandate the appointment of an Investigating Committee by the Session and immediate referral of the written initiate any investigation of the matter on his/her own.

3. **If the alleged victim is a child or youth (under age 18), the appropriate authorities, legal counsel, the DPC insurance carrier, and Presbytery officials listed in A. 3 will be notified immediately by the clerk of session.**
4. The clerk is urged to consult with the Presbytery Stated Clerk concerning the disciplinary procedures in the *Book of Order* as referenced above, and to discuss with the Stated Clerk the possibility of session asking the Presbytery to accept the case on session's behalf, as outlined in D-4.0100 Reference, of the Rules of Discipline.
5. If the person making the allegation of sexual misconduct or someone acting on her/his behalf, initially brings a written allegation outlining the sexual misconduct to a member of the Personnel Ministry Team, a member of Session, or the Pastor, the person receiving the written allegation shall immediately refer the statement to the Clerk of Session (if not the accused). If the Clerk of Session is named as the accused, the Pastor or Chair(s) of the Personnel Ministry Team shall consult immediately with the Stated Clerk of the Presbytery.
6. If a verbal allegation **alone** is made, the procedures outlined in II The Procedures, section **E. PROCEDURE TO RESPOND TO ALLEGATIONS OF SEXUAL MISCONDUCT BASED ON RUMOR OR HEARSAY** shall be followed.

D. PROCEDURE TO FILE AN ALLEGATION AGAINST AN EMPLOYEE OF DOWNTOWN UNITED PRESBYTERIAN CHURCH

1. When an alleged victim, or someone acting on her/his behalf, brings an allegation of sexual misconduct against an employee, the allegation shall be reported to the Business Manager, who will immediately convey such information to the Pastor, the Clerk(s) of Session, and the chair(s) of the Personnel Ministry Team. (In the event the allegation is against the Business Manager, it should be reported to the Pastor.)
2. **If the alleged victim is a child or youth (under age 18), the appropriate authorities, legal counsel, the DPC insurance carrier and the Presbytery officials named in A. 3 above will be notified immediately by the Business Manager or Clerk of Session.**
3. A lawyer shall be consulted immediately to determine whether the alleged behavior constitutes sexual misconduct under civil or criminal law, and the legal options. The DPC insurance carrier shall be contacted if appropriate.
4. In any discussions with the parties it should be made clear that any statements made by the parties may be used in any church or civil proceeding to the extent permitted by church or civil law.
5. Within 5 calendar days the Business Manager (if not named as the accused), the pastor, the Clerk(s) of Session and the chair(s) of the Personnel Ministry Team

(hereafter called the Supervising Group) shall meet to determine further action, based primarily on legal advice.

6. During the period of investigation, the Supervising Group may consider suspension with pay for the accused.
7. The Supervising Group may consider discipline, negotiation, mediation, or other options available under civil law. They may determine the final disposition of the case, except for job termination, which must be referred to the Personnel Ministry Team, or they may refer the matter to the Personnel Ministry Team. All efforts will be made to complete the decision and referral process within 15 days from the date the initial allegation was received. The accuser/victim and the accused shall be notified of the decision in writing, by certified mail.
8. At the conclusion of its work, the Supervising Group shall submit a written report to the Personnel Ministry Team:
 - a. If the allegation against the employee is found to be without merit, the Supervising Group shall report only that an accusation was made, found to be without merit, and a report has been placed in the employee's file.
 - b. All other reports shall include:
 - (1) Names of parties involved
 - (2) Allegations made by accuser
 - (3) Response made by accused (if any)
 - (4) Findings and conclusions
 - (5) Action taken by Supervising Group or action recommended to Personnel Ministry Team
9. If the Supervising Group refers the matter to the Personnel Ministry Team for a decision, the Personnel Ministry Team will make all efforts to, within 10 days:
 - a. Gather any additional information necessary to make a decision.
 - b. Determine the appropriate remedy, if any. It may refer the matter to Session for a final decision, if appropriate, after full consideration of the recommended action of the Supervising Group.
 - c. Inform the accuser/victim and the accused of the decision, in writing, by certified mail.
10. If the final decision is made by the Personnel Ministry Team it shall complete a written report, make a summary report to Session regarding the action taken, and file the report in the employee's personnel file. The report shall include:
 - a. Names of parties involved
 - b. Allegations made by accuser
 - c. Response made by accused (if any)
 - d. Findings and conclusions
 - e. Action taken by Personnel Committee

11. If the Personnel Ministry Team refers the matter to Session for a final decision it shall make all efforts to, within 10 days noted in #9 (i.e. within 25 days from the date the initial allegation was received), submit a written report to Session which will contain the information in 9a-d and shall include recommendations for Session action.
12. Session shall make all efforts to resolve the matter in a timely fashion and no later than 35 days from the date the initial allegation was received.
13. A copy of all final reports, whether made by the Supervising Group, Personnel Ministry Team or Session, shall be placed in the employee's personnel file.
14. The accuser/victim and the accused shall be informed of the action taken, in writing, by certified mail.
15. Either the accuser/victim or the accused shall have the right to appeal any decision or action taken by the Supervising Group or the Personnel Ministry Team by writing to the Clerk(s) of Session within 30 days of receipt of the decision by certified mail, requesting that the decision be reviewed and reconsidered by Session. The decision of the Session shall be final.
16. If the employee is a member of DPC or a member of another Presbyterian Church (USA) any church judicial proceedings arising from the allegations shall follow the procedures outlined in D.10.000ff of the *Book of Order*.

E. PROCEDURE TO RESPOND TO ALLEGATIONS OF SEXUAL MISCONDUCT BASED ON RUMOR OR HEARSAY

Rumors and hearsay of sexual misconduct within a faith community, whether by pastors, staff or members can create disorder, confusion, distrust, insecurity, lack of confidence, and damage to reputations. It is important that inquiries be made into such rumors in order to find the truth of the matter, if at all possible, so that those who are victims may be helped, those who have perpetrated injury to others can be disciplined and those whose reputations have been injured unjustly may be exonerated.

1. Upon receipt of a report of sexual misconduct, including a report from an informant(s) based on rumor or hearsay, the Personnel Ministry Team or a sub- committee appointed by the chair or co-chairs shall:
 - a. Communicate to the informant(s) the following information:
 - (1) Copies of Presbytery's "Policy on Sexual Ethics"; DUPC Sexual Ethics Policy; the Rules of Discipline, *Book of Order*, D-10.000(ff)
 - (2) Options available to the involved parties in regard to legal resources, counseling, negotiation, mediation and procedures for bringing an allegation under church discipline.
 - (3) Names, titles, telephone numbers of Presbytery agents, i.e. chairperson of Committee on Ministry, Stated Clerk, Executive Presbyter.

- (4) Names, telephone numbers of the Pastor, Clerk(s) of Session, Business Manager and chair of Personnel Ministry Team of DPC.

b. Make preliminary evaluation to determine:

- (1) The willingness of the informant(s) to present a report of the behavior to the Personnel Ministry Team or designated sub-committee.
- (2) The reliability of the informant(s)
- (3) The nature of the behavior that is reported to be sexual misconduct. This preliminary evaluation may include conversations with witnesses.
- (4) The identity of the parties involved in or significantly affected by this event.
- (5) Possible violations that may be subject to action by the Church or by civil authorities.
- (6) Possible witnesses or other evidence and information.

c. Prepare a written report which shall include:

- (1) The status of actions to date in regard to the informational and preliminary evaluation functions listed above.
- (2) Basic options available to the involved parties.
- (3) A recommended course of action(s), including any actions that may be required by civil, criminal or church law (*Book of Order*)

2. This written report shall be given to the informant and shall become part of the Personnel Ministry Team files.
3. The recommended course of action [c.(3)] shall be approved by a majority of the Personnel Ministry Team and implemented by the Personnel Ministry Team or brought, if needed, to Session for approval and implementation.
4. In any discussions with the parties involved, it should be made clear that any statement by a party may be used in any church, civil, or criminal proceeding to the extent permitted by church, criminal, or civil law.

F. PROCEDURE TO FILE AN ALLEGATION AGAINST A PERSON (CONGREGANT) WHO IS NOT A MEMBER OF DPC

1. Upon receipt of a report of sexual misconduct, or when an alleged victim, or someone acting on her/his behalf, brings an allegation of sexual misconduct against a person (congregant) who is not a member of the DPC, the information shall be conveyed immediately to the Pastor.
2. The Pastor will consult a lawyer and the DPC insurance carrier, and then will bring the matter to the attention of the Session who will determine the course of action to be taken.

3. **If the alleged victim is a child or youth (under age 18), the appropriate authorities, legal counsel, and the Presbytery officials named in A.3 will be contacted by the pastor.**

G. BRINGING CLOSURE

1. Procedure to Follow if the Allegation is Found to be Not Valid:
 - a. The investigation will cease.
 - b. A record of the process and its contents will be provided for the accused and may be included in a church file other than a personnel file or in the personnel file if the accused wishes.
 - c. A public statement of exoneration will be made if the accused chooses.
 - d. The investigating bodies shall respond with care and concern to the accuser(s) and to the congregation.
2. Procedure to Follow if the Allegation is Found to be Valid: Session will take steps to:
 - a. Protect and restore victims;
 - b. Restore the integrity and credibility of the church's ministry (congregation, Session, staff, and office of the Minister of Word and Sacrament);
 - c. Provide pastoral care to the congregation; and,
 - d. Appropriately discipline the offender, considering the nature, severity and frequency of the misconduct and take other appropriate steps to prevent the sexual misconduct from continuing or recurring.

APPENDIX A
ADDITIONAL DEFINITIONS

- A. Inappropriate Sexual Contact is any contact for the express purpose of the sexual gratification of the individual.
- B. Accused is the term used to represent the person against whom a claim is made of sexual misconduct.
- C. Accuser is the term used to represent the person claiming knowledge of sexual misconduct by a person covered by this policy. The accuser may or may not be the victim of alleged sexual misconduct. A person such as a family member, friend, or colleague of the victim may be the accuser whose information initiates an inquiry.
- D. Children and Youth of the DPC are in the age range of birth until 18th birthday.
- E. Congregant is a person who, though not a formal member, participates in the life, programs and/or worship of DPC. This may be, for example, one who attends worship services, sings in the choir, has received pastoral care or counseling, attends adult education programs, etc.
- F. Employee is a person who is hired or called to work for DPC for salary or wages.
- G. Mandated Reporter (Appendix H) is a person who is required by law to report suspected incidents of child abuse, including child sexual abuse, that comes to his/her attention. While ministers of Word and Sacrament are not designated New York State- mandated reporters, there may be moral and ethical reasons for ministers, and those under the jurisdiction of the Session of DPC to report child abuse to the designated authorities. Those reasons may be weighed against confidentiality principles applicable to the circumstances under which the persons became aware of the behavior.
- H. Member means active, inactive, and affiliate members of DPC.
- I. Victim - is the term used to identify the person alleged to have been injured by sexual misconduct as defined on page 3 of the Policy.
- J. Volunteer refers to those who provide services for DPC and receive no remuneration or monetary benefits. Volunteers include, but are not limited to, persons elected or appointed to serve on Session, boards, committees/ Ministry Teams and other groups under the jurisdiction of the Session.

APPENDIX B

TRAINING AND EDUCATION ON THE PREVENTION OF SEXUAL MISCONDUCT

A. Training and Education on the Prevention of Sexual Misconduct

1. EMPLOYEES

Employees will participate in workshops on sexual misconduct prevention annually as required by New York State. The Business Manager, in consultation with the Personnel Ministry Team, and the Pastor shall be responsible for providing opportunities for training and education in sexual misconduct prevention for the staff.

2. CONGREGATIONAL MEMBERS

- a. The Children's Ministry Team and Adult Forum Ministry Team are encouraged to provide age appropriate education in sexual misconduct prevention for children, youth and adults when opportunities arise.
- b. Persons working with children and youth are encouraged to lead age appropriate discussions with children and youth which may help them understand and recognize inappropriate behavior by adults or peers, and to whom they should report such behavior.
- c. The session shall encourage persons working with children and youth, session members, deacons, and congregational members to participate in educational workshops on sexual misconduct education and prevention held by the Presbytery of Genesee Valley and/or other organizations.

B. Interpersonal Activities by Clergy and Staff

1. Counseling

The Pastor and staff members are expected to provide pastoral care to **members**. Pastoral care normally takes place around a life issue - job loss, normal grieving, adjusting to change in life circumstances, spiritual life, etc. This type of counseling should be completed within six sessions. This is not therapeutic/ mental health counseling.

The Pastor is not expected to provide therapeutic counseling to parishioners or others. When a person seeks a conference on an issue that may involve mental health problems, the clergy are expected to make referrals to the appropriate mental health professionals. Intake/referral conferences of this type should be completed within two sessions. The only exception to this rule would be a

clergy person who is certified by the American Association of Pastoral Counselors or similar accredited organization and is in an ongoing supervisory relationship.

2. Conferences

- a. One-on-one conferences should generally be no longer than one hour in duration.
- b. All personal conferences should be scheduled and held during regular church office hours.
- c. Staff members are responsible for imposing limits and maintaining appropriate boundaries in all relationships.
- d. Any problem or suspected issue resulting from a personal conference should be reported immediately to another staff member, without violating confidentiality.
- e. Ordinarily staff should not drive parishioners home from church meetings.
- f. Staff should not be in the Church buildings alone with any person.

3. Home Visitation:

- a. Home visits with new parishioners/unknown persons should generally be no longer than forty-five minutes in duration.
- b. Frequent visits to any one home for whatever reason should be acknowledged to the Clerk of Session and /or the Chair(s) of the Board of Deacons.
- c. Any uncomfortable situation or suspected problem with a home visit should be discussed with the Clerk of Session and /or the Chair(s) of the Board of Deacons.

C. Guidelines for Deacons

Any uncomfortable situation or suspected problem during a home visit or field trip/ outing should be discussed with the Pastor.

APPENDIX C
ACCEPTANCE FORM FOR VOLUNTEERS

I hereby acknowledge that, on (date) _____, I received a copy of the Sexual Ethics Policy of Downtown United Presbyterian Church; that I have read the policy; that I understand its meaning; and that I agree to conduct myself in accordance with the policy. I further agree to advise the Church if I become aware of any violation of the Sexual Ethics Policy, and to provide full and complete information about this.

Signature: _____

Date: _____

This form shall be signed by all members of Session and Deacons, and such other persons as the Session shall require.

This form shall be maintained in a file by the Business Manager.

APPENDIX D
ACCEPTANCE AND RELEASE FORM FOR
VOLUNTEERS WORKING WITH CHILDREN AND YOUTH

I hereby acknowledge that, on (date) _____, I received a copy of the Sexual Ethics Policy of Downtown United Presbyterian Church; that I have read the policy; that I understand its meaning; and that I agree to conduct myself in accordance with the policy. I also certify by the signature below that no civil, criminal, or ecclesiastical complaint has ever been sustained or is pending against me for sexual misconduct; and that I have never resigned or been terminated from a position for reasons related to sexual misconduct. I understand that Downtown United Presbyterian Church will utilize all means available to protect the children and youth who participate in its programs. The church will also protect the confidentiality of all volunteers. I hereby authorize the Downtown United Presbyterian Church to conduct a background check to inquire concerning any criminal records of judicial proceedings involving me as a defendant in matters of sexual misconduct or abuse, and have also signed the attached authorization. I understand that this information may be used to verify the appropriateness of my volunteer activity at Downtown United Presbyterian Church.

Social Security Number: _____

Signature: _____

Date: _____

This form shall be signed by all persons working with children and/or youth in a supervisory role, i.e. regular and substitute church school teachers; youth advisors; those supervising child care; persons supervising special programs for children and/or youth; RAIHN coordinators, and such other persons as Session may require.

A file of signed forms shall be maintained by the Business Manager. A new release shall be signed at any time when changes are made to the policy.

APPENDIX E

ACCEPTANCE AND RELEASE FORM FOR EMPLOYEES

____ I hereby acknowledge that, on (date) _____, I received a copy of the Sexual Ethics Policy of Downtown United Presbyterian Church; that I have read the policy; that I understand its meaning; and that I agree to conduct myself in accordance with the policy.

____ I also certify by the signature below that no civil, criminal, or ecclesiastical complaint has ever been sustained or is pending against me for sexual misconduct; and that I have never resigned or been terminated from a position for reasons related to sexual misconduct.

____ I am unable to make the above certification. I offer instead, the following description of the complaint, termination, or the outcome of the situation with explanatory comments (if additional space is needed use other side of page).

The information I have provided is accurate to the best of my knowledge and may be verified by the employing entity. I hereby authorize the Business Manager of Downtown United Presbyterian Church to make any and all contact necessary to verify my prior employment history, and to inquire concerning any criminal records or any judicial proceedings involving me as a defendant and have also signed the attached authorization. By means of this release I also authorize any previous employer, any law enforcement agencies, any judicial authorities to release any and all requested information pertaining to sexual misconduct by me to the Business Manager of Downtown United Presbyterian Church.

I have read this release and understand fully that the information obtained may be used to deny me employment or any other type of position from the employing entity. I also agree that I will hold harmless the employing entity or judicial authority from any and all claims, liabilities, and causes of action for the legitimate release or use of any information.

Signature

Date

DISCLOSURE, RELEASE and AUTHORIZATION

In connection with my application for employment (including contract for services) with you, I understand that consumer reports, investigative consumer credit reports, and background verifications may be requested from a consumer reporting agency (CRA) These reports may include the following types of information: names and dates of previous employers, reason for termination of employment, work experience, accidents, and other information about my background, references, character, past employment, education, general reputation, personal characteristics, mode of living or records maintained by both public and private organizations. I further understand that such reports may contain public record information concerning my driving record, workers= compensation claims, credit, bankruptcy proceedings, criminal records, etc., from federal, state and other agencies which maintain such records; as well as information from CRA concerning previous driving record request made by others from such state agencies, and state provided driving records. Upon written request, I will be informed whether or not an investigative consumer report (as defined under New York State law) was requested, and if such a report was requested, the name and address of the CRA to whom the request was made.

If I refuse to authorize the procurement or preparation of an investigative consumer report, you may decline to grant employment on the ground that I refused to execute such authorization.

I AUTHORIZE, WITHOUT RESERVATION, ANY PARTY OR AGENCY CONTACTED BY THE COMPANY OR THE CRA TO FURNISH THE ABOVEMENTIONED INFORMATION AND ALL INFORMATION WHICH MAY BE OBTAINED FROM A CONSUMER CREDIT REPORT, INVESTIGATIVE CONSUMER CREDIT REPORT AND BACKGROUND VERIFICATION.

I have the right to make a request to the CRA, upon proper identification, to request the nature and substance of all information in its files on me at the time of my request, including the sources of information; and the recipients of any reports on me preceding my request. I hereby consent to your obtaining the above information from the CRA, and I agree that such information which the CRA has or obtains, and my employment history with you if I am hired, will be supplied by the CRA to other companies which subscribe to the CRA's services.

I hereby authorize procurement of consumer report (s). If hired (or contracted), this authorization shall remain on file and shall serve as ongoing authorization for you to procure consumer reports at any time during my employment (or contract) period.

Print Name _____

Applicants Signature _____ Date _____

APPENDIX F
JUSTICE-MAKING FOR THE ACCUSER/VICTIM
IF THE ALLEGATION IS FOUND TO BE VALID

Justice-making for the accuser/victim suggests attention to the following:

1. *Truthfulness*
Breaking the silence surrounding the reality of abuse.
2. *Acknowledgment of the truth told*
Hearing, naming, and condemning the wrong done.
3. *Compassion*
Suffering with the victim.
4. *Protection of the vulnerable*
Protecting the victims and others from further harm.
5. *Calling to account*
Confrontation of the offending pastor, staff or volunteer and implementation of these procedures.
6. *Vindication*
Setting the victim(s) free from suffering caused by pastoral, staff or volunteer abuse.

APPENDIX G

Who are Mandated Reporters? (As of 2/2022).



New York State recognizes that certain professionals are specially equipped to fulfill the important role of mandated reporter of child abuse or maltreatment. Mandated reporters are required to report suspected child abuse or maltreatment **when, in their professional capacity**, they are presented with **reasonable cause to suspect** child abuse or maltreatment.

Those designated professionals include:

- Physician
- Registered Physician Assistant
- Surgeon
- Medical Examiner
- Coroner
- Dentist
- Dental Hygienist
- Osteopath
- Optometrist
- Chiropractor
- Podiatrist
- Resident
- Intern
- Psychologist
- Registered Nurse

- Social Worker
- Emergency Medical Technician
- Licensed Creative Arts Therapist
- Licensed Marriage and Family Therapist
- Licensed Mental Health Counselor
- Licensed Psychoanalyst
- Licensed Behavior Analysts
- Certified Behavior Analyst Assistants
- Hospital Personnel engaged in the admission, examination, care, or treatment of persons
- A Christian Science practitioner
- School Official, which includes but is not limited to:
 - School Teacher
 - School Guidance Counselor
 - School Psychologist
 - School Social Worker
 - School Nurse
 - School Administrator
 - or other school personnel required to hold a teaching or administrative license or certificate
- Social Services Worker
- Director of a children's overnight camp, summer day camp, or traveling summer day camp
- Day Care Center Worker
- School-age Child Care Worker; provider of family or group family day care
- Employee or volunteer in a residential care facility
- Child Care or Foster Care Worker
- Mental Health Professional
- Substance Abuse Counselor
- Alcoholism Counselor
- All persons credentialed by the NYS Office of Alcoholism and Substance Abuse Services
- Peace Officer

- Police Officer
- District Attorney
- Assistant District Attorney
- Investigator employed in the Office of a District Attorney
- Any other law enforcement official

For the entire current list go to the [New York State Senate, Laws of New York- External link opens new window](#).

