

“Safe Church” Policy: Sexual Misconduct

**Christ Episcopal Church
Marlboro, New York
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Definition and reporting procedure

What Constitutes Sexual Misconduct by Employees of or Volunteers at Christ Church-Marlboro?

1. A lay person who is employed by or who volunteers for Christ Church is guilty of sexual misconduct:

- when, in the context of his/her employment or volunteer activity, he/she engages in sexual behavior or sexually suggestive behavior, or asks or otherwise attempts to engage in such behavior, with
 - Any person who is under the age of 17, or who is otherwise legally incapable of giving informed consent as provided in § 130.05 of the Penal Law of the State of New York;
 - Any person as to whom engaging in or attempting to engage in such behavior would constitute a violation of the professional ethics of the employee or volunteer; or
- when he/she commits acts of sexual harassment in the work place, in violation of the policy against sexual harassment adopted by Christ Church.

2. The term "lay person who is employed by or volunteers for Christ Church" as used in this rule means any lay person:

- who receives a salary for full-time or part-time work from Christ Church;
- who is engaged as a consultant or other independent contractor in
- connection with any program or service sponsored by Christ Church;
- who volunteers his/her time to assist with any program sponsored by Christ Church

3. The term "sexual behavior" as used in this rule means any form of physical or voyeuristic behavior that is intended to provide sexual gratification to any party involved in that behavior, including but not limited to "sexual abuse" and "sexual misconduct" as those terms may be used by The Church Insurance Company in any underwriting definition of "sexual misconduct" hereafter adopted.

4. The term "sexually suggestive behavior" as used in this rule means any form of verbal or visually graphic behavior that, to a reasonable person, suggests sexual matters.

5. An employee of or volunteer for Christ Church commits a violation of his/her professional ethics within the meaning of this rule if he/she engages in sexual behavior or sexually suggestive behavior, or asks or otherwise attempts to engage in such behavior, with:

- any person with whom the employee or volunteer is in a counseling relationship, which includes:
 - any person to whom the employee or volunteer is giving any form of pastoral care, including counseling, spiritual direction or spiritual guidance; and
 - any person from whom the employee or volunteer, acting in his/her capacity as a Diocesan employee or volunteer, has received confidential or privileged information;

- any member of the family of a person to whom the employee or volunteer is giving any form of pastoral care, including counseling or spiritual direction or spiritual guidance;
- any former counselee or directee, or any member of the family of a former counselee or directee, if sexual behavior between the employee or volunteer and the former client or family member would compromise the integrity of counseling or direction and/or constitute the use of the counseling relationship for the member of the clergy's personal gain;
- if, in the context of his/her employment or volunteer activity, the employee or volunteer serves as a teacher or administrator of a church-affiliated educational institution, any student who is currently being taught by or is under the administrative purview of the employee or volunteer;
- if, in the context of his/her employment or volunteer activity, the employee or volunteer serves as an administrative or residential supervisor of a church-affiliated residential center, any person who lives, whether temporarily or permanently, in that shelter.

6. Christ Church strictly prohibits any interaction with children or youth by anyone with a civil or criminal record of child sexual abuse or who has admitted prior sexual abuse or anyone known to have a paraphiliac diagnosis (e.g., pedophilia, exhibitionism, voyeurism) as defined by the American Psychiatric Association.

7. A member of the clergy or a postulant or aspirant for orders who is employed by or who volunteers for Christ Church shall abide by the Diocesan rules concerning sexual misconduct by clergy.

Procedure if a Parish Employee or Volunteer is Accused of Sexual Misconduct Involving Christ Church

A. Reporting Allegations of Sexual Misconduct:

If it appears that the misconduct is criminal in nature, Diocesan and public officials will be notified immediately.

1. Anyone who wishes to report an allegation of sexual misconduct by a lay or clerical employee of or volunteer for Christ Church may direct his/her report to any of the following persons (unless that person is the alleged offender):

- the (rector/vicar/priest-in-charge),
- one of the Wardens,
- a member of the Vestry
- any other person who supervises the work of the alleged offender

B. Procedures for Dealing with Allegations of Sexual Misconduct by Clergy

1. If the allegation reported involves sexual misconduct by a member of the clergy (bishop, priest or deacon) who is an employee of or volunteer for the parish, the person who receives the report should inform a representative of the Episcopal Diocese of New York as designated in the Diocesan Procedures for Handling Allegations of Clerical Sexual Misconduct ("Diocesan Procedures"). If the alleged offender is someone other than the priest-in-charge, the matter may also be reported to the priest-in-charge; if the alleged offender is the priest-in-charge, the matter may also be reported to the Wardens. In either event, the Diocese will investigate the allegation in conformity with the Diocesan Procedure. The parish should await word from the Diocese before undertaking any investigative or disciplinary action of its own.

2. If the Bishop determines that there is probable cause to order a canonical investigation into an allegation of clerical sexual misconduct, and if the accused cleric is a cleric other

then the priest-in-charge, then the priest-in-charge, after consultation with the Bishop, may suspend or restrict the accused cleric from the performance of some or all ministerial duties within the parish during the pendency of the canonical proceedings contemplated by the Diocesan Procedures and shall suspend the accused cleric from all duties having any connection with youth if the allegation against the cleric involves sexual abuse of a minor. The priest-in-charge may also direct the accused cleric to have no contact with the complainant until the matter is resolved. If the accused is the priest-in-charge, the Wardens and Vestry, after consultation with a representative of the Diocese, may suspend or restrict that cleric's continuing performance of ministerial duties within the parish during the pendency of canonical proceedings, but only to the extent that such restriction is canonically and contractually permissible.

3. If a member of the clergy is found guilty of or confesses to sexual misconduct, then in addition to any ecclesiastical penalties imposed by the Bishop, the appropriate parish authorities may take any disciplinary action against the offender that is canonically and contractually permissible. If the offender is a cleric other than the [rector/vicar/priest-in-charge], then the priest-in-charge, may admonish, censure, suspend or terminate the offender and may require education, counseling, and/or restitution by the offender as a condition of reemployment. If the offender is the [rector/vicar/priest-in-charge], then the Wardens and Vestry may take any disciplinary action against the offender that is not barred by canon or by the terms of the offender's contract with the parish and/or the Diocese.

4. It is the policy of this parish to cooperate fully with all aspects of the Diocesan Procedures, including procedures for confidentiality of investigations and for disclosure to the parish and healing within the parish.

5. All press inquiries regarding any allegation of clerical sexual misconduct that are directed to any representative of the parish (clergy, lay staff, Wardens, Vestry, volunteers) shall be referred to the press officer handling the matter on behalf of the Diocese of New York.

C. Procedures for Dealing with Allegations of Sexual Misconduct by Lay Employees and Volunteers

1. All allegations of sexual misconduct by a lay employee or volunteer, by whomever received, must be reported to the priest-in-charge.

2. Within 72 hours after learning of an allegation of sexual misconduct by a lay parish employee or volunteer, an investigative team consisting of one Warden or Vestry Member and the priest-in-charge shall begin an investigation into the charges. In conducting the investigation, the investigative team should interview the complainant, the accused, the person who directs or supervises the accused's activities, the person who directs or supervises the complainant (if the complainant is an employee or volunteer) and any witnesses who have information relevant to determining the truth of the allegation. Whenever possible, the investigative team should meet with witnesses and obtain written statements from them.

3. At the conclusion of the investigation, the investigative team shall prepare a written report summarizing its findings.

4. The priest-in-charge shall be the final arbiter of whether or not the allegation is supported by the evidence. If the priest-in-charge determines that the allegation is supported by the evidence, he/she shall take disciplinary action against the accused that is proportional to the offense. For employees, discipline may include reprimand, demotion or refusal to give a promotion, counseling or training, suspension (with or without conditions) or dismissal. For volunteers, discipline is limited to reprimand or termination from participation in all or certain specified parish sponsored activities. If appropriate, satisfactory completion of

counseling and/or training and restitution to the accused may be imposed as a disciplinary sanction precedent to re-employment or renewed participation in parish-sponsored activities.

5. A written notation of the [rector's/vicar's/priest-in-charge's] determination and any discipline imposed shall be made in a confidential investigative file (see procedure #18) and in the accused's personnel file, if any. It shall also be sent to any supervisory personnel who need to be informed of the matter's outcome.

6. There shall be no appeal from the decision of the priest-in-charge.

7. At any time during the investigation, the priest-in-charge may direct that the accused be placed on administrative leave (with pay, in the case of an employee) or be suspended from participating in some or all parish sponsored activities pending the conclusion of the investigation and the determination of the matter. The priest-in-charge may also direct the accused to have no contact with the complainant until the matter is resolved.

8. The priest-in-charge may appoint a Complainant's Liaison to assist the complainant during the investigation. The Complainant's Liaison shall serve as the intermediary between the parish and the complainant, as a resource person and as a source of information for the complainant. He/she may assist the complainant in making a formal complaint and help the complainant during the investigation if the complainant so desires. The Complainant's Liaison should also be alert to the pastoral needs of the complainant and should inform the parish if provision needs to be made for the pastoral care of the complainant.

9. Where the complainant is a minor (less than 17 years old) at the time the allegation is made, and where the conduct alleged, if proved, would constitute child abuse or a violation of the Penal Law of the State of New York, the priest-in-charge shall advise the complainant's parent(s) or legal guardian(s) that the parish will report the matter to child abuse authorities (Child Welfare Agency in New York City; Department of Social Services elsewhere) for investigation if the parent, guardian or some other person has not already done so. If such a report is made, the parish shall defer any independent investigation of the complaint and any final disciplinary action on the complaint until the conclusion of any investigation by the child abuse authorities. However, as soon as the report is received, the priest-in-charge shall suspend the accused from participating in parish-sponsored youth activities, and may suspend the accused from employment or participation in other parish activities. If allegations of sexual abuse of a minor are sustained, then the accused shall be terminated immediately and may not be reinstated under any circumstances.

10. If the allegations are sustained by the priest-in-charge after inquiry, the priest-in-charge, in consultation with the Wardens, shall decide what if any, notification about the matter should be given to the accused's co-workers, to participants in any parish-sponsored program or community program that is affected by the disciplinary action taken against the accused, or to the parish generally. The propriety and content of any such notification shall take into account the nature and severity of the offense, the need for truth and openness about sexual misconduct in the Church, the pastoral and employment needs of the accused's co-workers and/or other participants in the affected program, the potential for liability to the parish if notification is not given, and the possibility of rehabilitating the accused.

11. In the event of press inquiry during an investigation into sexual misconduct by a lay employee or volunteer, the parish may confirm that an accusation has been made and indicate that a formal inquiry is in progress. If the employee or volunteer has been suspended, that fact shall be stated, but with the caveat that such suspension should not be interpreted as an admission that the accused is guilty of the offense alleged.

After the matter is determined, the parish may, in its discretion, issue a press release explaining what took place, announcing the results of the investigation and determination, and explaining the disciplinary action taken, if any.

A single spokesperson shall be appointed to handle all dealings with the press, with sensitivity to the interests of all parties involved, including the complainant, the accused and the accused's family/loved ones.

D. Procedures Applicable to All Allegations

1. Notes, statements, briefs and reports created during an investigation shall be maintained in a confidential investigative file kept by the priest-in-charge. and disclosure of information in this file shall only be made on a need-to-know basis consistent with these procedures. However, no person involved in the process, especially the complainant and the accused, should be given unrealistic expectations of confidentiality that would impede the ability of the parish to conduct a thorough investigation into the charges, to deal pastorally with any victims or other parties affected by the accused's behavior, or to cooperate with authorities.

2. The parish shall cooperate with any criminal investigation that may be commenced into allegations of sexual misconduct by a parish employee or volunteer.

The parish shall respond fully to any lawful subpoena issued by any party to any civil or administrative action or investigation involving allegations of sexual misconduct by a parish employee or volunteer.

No representative of the parish shall impede or discourage a complainant from reporting an allegation of sexual misconduct by a parish employee or volunteer to appropriate authorities or from filing any civil action for damages on account of such misconduct.

3. As soon as possible after an investigation is concluded, the Wardens shall notify the parish's insurer of the allegation and shall thereafter keep the insurer apprised of the matter's progress. In case of any allegation of clerical sexual misconduct, the parish shall notify its insurer when instructed to do so by the Chancellor or Vice Chancellor.

4. Christ Church strictly prohibits any person, whether clergy, lay employee or volunteer, who has ever sexually abused a minor or who has been diagnosed as a paraphiliac from interacting with children or youth. Therefore, if at any time a parish employee or volunteer is found to have sexually abused a minor in the past, or is known to be a paraphiliac, the [rector/vicar/priest-in-charge/wardens] shall take all necessary steps to ensure that the parish employee or volunteer has no contact with children or youth.

Sexual Harassment in the Workplace

This statement sets forth the policy of Christ Church on sexual harassment in the workplace by members of the clergy and by employees and volunteers who work for Christ Church.

Christ Church condemns sexual harassment in the work place.

Sexual harassment occurs when:

- a person is required (either explicitly or by implication) to submit to offensive sexually-oriented conduct as a condition of (a) getting a job, a raise or bonus, a promotion or a good assignment, or (b) avoiding demotion, undesirable assignments or termination;
- sexually-oriented conduct unreasonably interferes with an individual's work performance or creates a hostile or offensive working environment.

Offensive sexually-oriented conduct is conduct that has some sexual content, that is unwelcome, and that is personally offensive to the person to whom it is directed. Some examples of such conduct include:

- recurring verbal remarks of a sexual nature, including those made as a part of any purported humorous conduct (such as off-color jokes);
- persistent sexual flirtations, propositions or requests for sexual favors;
- unwanted physical touching of any kind;
- open displays or unsolicited showings of nude or sexually explicit photographs; or
- non-sexual forms of harassment that are directed only toward members of one sex (for example, always being rude or belittling to women but never to men, or vice versa).

Such conduct need not take place on workplace premises to constitute sexual harassment.

Offensive sexually-oriented conduct can be directed to either men or women, and may be heterosexual or homosexual. A supervisor or high-ranking employee may be guilty of sexually harassing a subordinate, but so can a person's co-workers if, by their behavior, they create an environment in which the employee or volunteer is uncomfortable and has difficulty functioning.

Sexually-oriented conduct that is not unwelcome or offensive to the person who is subjected to it is not sexual harassment. However, the fact that co-workers once had some sort of consensual relationship does not and will not excuse harassing conduct that occurs after the relationship ends. Also, it is no defense to a charge of sexual harassment to say that the complaining party did not report it. Often, sexually-oriented conduct is unwelcome to a co-worker, but that person feels intimidated about complaining, or fears retaliation, so he or she puts up with offensive behavior. Such "consent" is not really consent at all.

Christ Church believes that sexual harassment is inherently exploitative, undermines the integrity of the working relationship, debilitates morale and interferes with work effectiveness. No one, male or female, should be subject to unsolicited and unwelcome sexual overtures or conduct in the workplace, either verbal or physical.

Workshop attendance requirements

Christ Church requires that the following persons attend the "Safe Church Workshop":

- Clergy
- Paid staff

Christ Church requires that the following persons attend the "Safeguarding God's Children" workshop":

- Church school teachers
- Other volunteers who regularly supervise youth activities

Attending these workshops is a requirement of volunteering or employment.