

Genesee Valley Toolbox for Session Sexual Misconduct Policies

Presbytery of Genesee Valley

#11 in a series (2020, September)

Brief Updates: Items with Relevance for Session Policies

Genesee Valley Toolbox is a continuing, occasional series of support for Sessions in the Presbytery of Genesee Valley as they develop, adopt, implement, and update their Presbyterian Church (U.S.A.)-mandated policies regarding sexual misconduct and child and youth protection, and their New York State-mandated workplace sexual harassment policies. The series offers practical information, recommends best practices, and identifies reliable sources on numerous topics. The intent is to deepen knowledge, encourage right behaviors, and achieve important outcomes.

This edition is prompted by events in the first half of 2020 which vividly demonstrate how our churches and the secular society continue to respond to sexual boundary violations and the adverse outcomes which affect so many. The catalysts originate in three spheres:



New York State
Law



PC(U.S.A.)
224th General Assembly



Presbytery of Genesee Valley
Vignettes Involving Congregations

The opening three chapters of the book of Ezekiel describe God's call to one who was called to be a prophet among the people Israel in exile. Among the commissions God assigns to Ezekiel, the fourth designates a specific role and function of personal responsibility for the people's well-being:

“...I have made you a sentinel for the house of Israel.” (Ezekiel 3:17).

In the spirit of Ezekiel's fourth commission, it is imperative that our congregations' Sessions act as wise and caring sentinels. Alert sentinels will embrace the need to monitor and learn from emerging events and changing standards. While wise Sessions will recognize the practical advantages when policy improvements are adopted and put into practice, it is caring elders who will apply their knowledge for the sake of people in their congregation who gather in the name of Jesus Christ, especially on behalf of those in our midst who are most vulnerable.



Child Victims Act: Filing Deadline Extended

Due to the Covid-19 pandemic, the New York State court system in March, 2020, greatly reduced access to court services statewide. In a move to allow procedural fairness, the New York Legislature voted in late May to extend the deadline for survivors of childhood sexual abuse to file a civil suit under the Child Victims Act (CVA). Passed in 2019, the CVA created a one-year period in which a person may bring a claim for acts which exceeded the statute of limitations; the original deadline was the end of the day, August 13, 2020. The Governor signed the bill into law on August 3, 2020. The new deadline is the end of day, August 13, 2021.

For background information on the Child Victims Act:

<https://media.myworshiptimes2.com/wp-content/uploads/sites/25/2019/01/20155627/Toolbox-8.pdf>

To read the text of the bill – Senate 7082 / Assembly 9036 – which extends the deadline: <https://www.nysenate.gov/legislation/bills/2019/s7082>



For those who are survivors of childhood sexual abuse, the Legislature's act to increase the length of time in which to bring forward an allegation is consistent with an existing provision of the *Book of Order*, Rules of Discipline: There is no time limit for the disciplinary offense of "sexual abuse of another person." (see D-10.0401, p. 158: <https://www.pcusastore.com/Products/OGA19010/book-of-order-20192021-download.aspx>) Church law recognizes that it can take years or even decades before a person who is a survivor is prepared to disclose having been abused.

Of note to all church leaders: As of 2019, the Rules of Discipline now contains a provision that there is "no time limit for charging that a person who knew or reasonably should have known of the reasonable risk of sexual abuse of another as defined in D-10.0401c(1) or (2) failed to take reasonable steps to minimize the risk." (see the link provided above)



224th General Assembly: Actions Regarding Policies & Book of Order

Due to the Covid-19 pandemic, the 224th General Assembly of the Presbyterian Church convened in a virtual meeting in June, 2020. The following actions all relate to matters involving sexual boundary violations, including concerns for both prevention and intervention.

On Amending the Presbyterian Church (U.S.A.) Child/Youth/Vulnerable Adult Protection Policy and Its Procedures.

By a 465-1 vote, the General Assembly revised existing policy. Source: <https://www.pc-biz.org/#/search/3000610> **Comment** While this policy applies only to activities sponsored by General Assembly entities, our church leaders can check this document for ideas to improve their church's policy.

Safe and Sacred Space Task Force Report.

Due to limitations imposed by the pandemic, the report was referred to the 225th General Assembly (2022). Source: <https://www.pc-biz.org/#/search/3000635> **Comment** The brief report contains several links to a trove of on-line resources for congregations regarding both session sexual misconduct policies and session child and youth protection policies. Our church leaders can easily access these links to explore a wide range of material.

Survivors of Sexual Misconduct Task Force Recommendations.

Due to limitations imposed by the pandemic, the recommendations were referred to the 225th General Assembly. Source: <https://www.pc-biz.org/#/search/3000556> **Comment** Among the recommendations are proposed amendments to the *Book of Order*. E.g., the proposals would require boundary and child protection training for Ministers of Word and Sacrament, Commissioned Ruling Elders, and Certified Christian Educators. Another addresses the topic of confidentiality in relation to mandatory reporting. The recommendations are accompanied by rationales. These constructive proposals can be a source of inspiration and ideas for our church leaders who seek to improve the quality of their Session's policies.

On Replacing the Rules of Discipline Section with a New Church Discipline Section.

Due to limitations imposed by the pandemic, this proposed amendment to the *Book of Order* was referred to the 225th General Assembly. Source: <https://www.pc-biz.org/#/search/3000546> **Comment** This would be the first comprehensive revision of the Rules of Discipline in several decades. It contains procedural and substantive changes to how our disciplinary proceedings are structured. Many proposals arose from cases of sexual boundary violations.



Presbytery of Genesee Valley: Sexual Harassment and a Congregation

The following account is based on a recent incident involving a congregation in our Presbytery. Does it raise questions for Elders in your congregation? Are there lessons here which might prompt discussion about a need for changes in your congregation's practices?

Vignette: Who Should Have Authority?

The church's Session had long-designated the pastor to function in the role of head of staff, which included the authority to hire and terminate employees. This administrative practice had worked well for many years. Thus, when the Session adopted its workplace sexual harassment policy, as required of all employers by New York State law, it was an easy choice to name the pastor as the one to receive complaints of harassment.¹ That these multiple, overlapping administrative roles - head of staff, authority to hire and fire, recipient of sexual harassment complaints - created a potential conflict of interest for the person in the pastor's role was not a consideration.

The conflict of interest, however, became very real as the date approached for one employee's annual performance review. For months, the employee had acted toward the pastor in ways which clearly violated the Session's workplace sexual harassment policy. In addition, the person's work performance did not meet reasonable job expectations. Given the overlapping roles, the pastor felt stuck. How could a fair, impartial, and just procedure be applied in either the performance review or a response to the sexual harassment? Recusal would only side-step the problem, leaving the structural conflict intact.

The administrative remedy was simple: Reassign the authority for both employment decisions and the receipt of staff complaints of harassment to a personnel committee which is empowered to make decisions. Not only did this structural change eliminate a conflict of interest, it also allowed the pastor to function in the preferred primary role in the congregation's mission and ministry - as pastor.

Question In your Session's workplace sexual harassment policy, who by role is designated to receive complaints of harassment? Is there a potential conflict of interest in this arrangement?

¹ The law went into effect in October, 2018. For more information, see <https://www.ny.gov/combatting-sexual-harassment-workplace/employers>



Presbytery of Genesee Valley

TO: Clerks of Session, Pastors in Churches, Church Administrators

FROM: NYS Workplace Sexual Harassment Prevention Training Team: *Karen Bolinger, John Cox, Anne Gravenstede, Susan Orr, Rose Peet*

RE: Mandated NYS Workplace Sexual Harassment Prevention Training

Date: September 2020

Since October, 2018, all non-profit employers, including churches, are mandated by New York State to have a workplace sexual harassment prevention policy and provide annual training that meets or exceeds New York State law's minimum standards. Each church employee, paid and unpaid, must receive training again this year, to be completed by **December 31, 2020**. For more information, please access the NYS website at: <https://www.ny.gov/combating-sexual-harassment-workplace/employers>

The Presbytery's Tools & Training Working Group, in collaboration with the Presbytery's Personnel Committee, recommends churches offer options for the training of your employees and required volunteers. The current pandemic does make it challenging to offer this important training in person. To complete the required training for 2020, the Presbytery is suggesting that congregations use the tools listed below:

- Interactive **On-line Training** via Armatus, a subsidiary of Praesidium (*see details below*). This free training meets NYS requirements. See below for information on the Armatus/Praesidium Training.
- NYS Workplace Sexual Harassment Prevention Training, which is provided online at the following link: <https://www.ny.gov/combating-sexual-harassment-workplace/employers>. The training video and/or the tools found on the NYS website may be used to create a Zoom on-line training conducted by an experienced congregation member for your employees and volunteers. Enrollment records **must** be kept.

Unfortunately, for safety reasons the Presbytery will not be offering in person training sessions in 2020. In order to support your efforts, the Presbytery of Genesee Valley will be offering two Zoom Q&A sessions from 6:30-8:00 PM on September 29 & 30th for Pastors, Clerks, and Administrators to answer any questions regarding the on-line training tools and administrative requirements. The Sept 30th offering has also been extended to our sister congregations of the Presbytery of Geneva. Advance registration is required, and can be completed using the following link: <https://us02web.zoom.us/meeting/register/tZYsc-2rqzMjHtdWUAIL4Vxi6h1PI6gPvp9E> After registering, you will receive a confirmation email containing information about joining the meeting.

Steps to Set-up Access to On-line Armatus/Praesidium Training:

1. Identify an individual to serve as the **Administrator** on behalf of your congregation. A **best practice** is to appoint an Administrator who is not a paid staff person. This is to avoid any dual role relationship situation whereas the administrator as an employee may be the perpetrator or the recipient of workplace sexual harassment (e.g., the chair of your Personnel Committee or the Clerk of Session). This person will be responsible for setting-up user accounts for all paid staff and volunteers who wish to use the On-Line Training Module. The Administrator will also be responsible for maintaining a database of all designated employees, paid and unpaid, who have taken the required annual training by December 31, 2020.
2. The Administrator will go to <https://www.praesidiumib.com/signup/> to fill out and submit a brief three page form named “We’re So Glad You’re Here”.
 - The second field on the form “Please select if you are a Program Participant, IB Member or Agent” – from the dropdown box choose “Insurance Board Member”
 - You can leave the third field blank – as an Insurance board member, not participant, you do not have an IBID#
 - In the fourth field “Denomination” – from the dropdown box choose “Presbyterian Church (USA)”
 - In the fifth field “Presbyterian Church USA: Select your region” – from the dropdown box choose “Genesee Valley”

After 3-5 days the Administrator will receive an email from Praesidium Support confirming their Administrator Appointment detailing the required steps to create User accounts for staff and volunteers interested in the on-line training module. One very important thing to remember when setting up accounts is to **identify your church in the “Remarks” field**. This will help you to view reports later. Once accounts are set up for your Users, they can begin training immediately.

Below is an example of the email the admin will receive. Included is the email for our support dept that can assist with any questions along the way. support@praesidiuminc.com

To Access Training

1. Go to <https://praesidiuminc.com/login>
2. Enter your username and password and click **Login**
 - a. Username:
 - b. Password:
3. Click the course you wish to view.

Administering Armatus

Your account has been set up with administrator access to Armatus, giving you the ability to add user accounts and oversee training compliance across your organization. To access the administrative module, click the **Armatus Administration** link at the bottom of the course listing. You will use the same username and password to access this module.

The following tools will help familiarize yourself with administrative functions:

- [Administrator Demo](#)
- [Administrator Manual](#)

Some additional helpful information from the NYS website:

From the FAQ

Q2. What type of records must employers maintain to verify compliance?

A2. No signed acknowledgement of having read the policy is required, but employers are encouraged to keep a signed acknowledgement and to keep a copy of training records. These records may be helpful in addressing any future complaints or lawsuits.

Training

Q1. Who is considered an Employee for the training requirement? And when does the training need to be completed?

A1. "Employee" includes all workers, regardless of immigration status. Employee also includes exempt or non-exempt employees, part-time workers, seasonal workers, and temporary workers. All employees must complete training that meets the minimum standards by Dec. 31, 2020.

Q2. How often must employees receive workplace sexual harassment prevention training?

A2. Employees must be trained at least once per year. This may be based on the calendar year, fiscal year or anniversary of each employee's start date.

Q3. How soon do new employees need to be trained?

A3. As employers may be liable for the actions of employees immediately upon hire, the State encourages training as soon as possible. Employers should distribute the policy to employees prior to commencing work and should have it posted.

Q4. If an employer has previously provided training that meets or exceeds the requirements, must employees be retrained?

A4. Employees must receive training on an annual basis. If employees have already received training this year, but it did NOT meet all new requirements, employers need only provide supplemental training to ensure all requirements are met.

Q9. What does "interactive training" mean?

A9. New York State law requires all sexual harassment training to be interactive. Training may be online, but must include some feedback mechanism or interaction, such as an on-line quiz. An individual watching a training video or reading a document only, with no feedback mechanism or interaction, would NOT be considered live interaction.

Q10. Is a live trainer required and does a trainer need to have a certification?

A10. A live trainer is not specifically required. Live trainers may appear in person or via phone, video conference, etc. No certification is required and the State does not currently certify or license training providers.

Q12. What happens if some employees fail to take the training despite an employer's best efforts to make it available, and to require everyone to take it?

A12. Employers are required to ensure that all employees receive training on an annual basis. Employers may take appropriate administrative remedies to ensure compliance.



Presbytery of Genesee Valley: Sessions and Resistance to a Sexual Misconduct Policy

What are typical barriers to **adopting**, **implementing**, or **updating** a Session sexual misconduct policy?

Naming the Resistance

“...have eyes, but do not see ...have ears, but do not hear.”

Jeremiah 5:21

Denial of possibility “That can’t happen here, not to us.” “We have no history like that. Why worry?” “We are a close, Christian family. Sexual abuse doesn’t happen in our family.” “We know everyone and trust everyone. We are not at risk.” The *possibility* of a problem occurring is denied due to a perceived low *probability*.

Minimization of the seriousness of the consequences “The Church overreacts to a lot of ‘he said / she said’ situations.” “We can handle anything that comes along. We don’t need a policy. Afterall, Christians are supposed to practice love and forgiveness.” “How big a deal is this, anyway? I don’t get it.”

Avoidance of accepting responsibility “We have other priorities and needs.” “Where do we begin? The task is overwhelming. Just give us a template to fill out.” “Shouldn’t the Presbytery Attorney tell us what to put in our policy?” “I don’t like the national Church telling us what we have to do.” “Our policy is too long and complicated. It would take forever to fix it.” “How are we supposed to keep up with changes in Church law or New York law? We’re no experts.” “We covered all this years ago.”

Ignoring the value of engaging the congregation in the process as a way to create a quality document “We’ll just copy Presbytery’s policy, and fill-in our name.” “We just do a google search and copy what another church has done.” “We have an Elder who works in human resources; she can write it for us.” “We copied what a neighboring church uses.”

Fear “If we really apply what our policy says, we’ll alienate longtime members who’ve worked with our kids in Sunday School and youth groups.” “If we publicize our policy, it sends the message we have problems and puts off potential members we want to attract.” “This whole topic makes me very uncomfortable. Let’s talk about something else.”

From a Statement by Rev. Dr. J. Herbert Nelson, II
Stated Clerk of the General Assembly
Presbyterian Church (U.S.A.)
01/09/20

“While we as a denomination have talked about providing a safe space for individuals to live, work, and play while carrying out the mission of God in Christ, our sexual misconduct policies have not always been effective in protecting vulnerable persons among us. Tragically, the Presbyterian Church (U.S.A.) has sometimes failed to listen to the long-silenced voices of survivors of sexual misconduct by church leaders.

“We must do better—as individuals and as a church.

“I write to remind you of our obligations as followers of Jesus Christ, and to admonish you to keep the prevention of sexual abuse and the protection of the vulnerable a priority in your mission and service to God, your councils, and the people of God. If your council has not implemented a sexual misconduct policy or a child and youth protection policy—or if you have such policies but have not updated them—make them a priority in the coming year. Train staff, your council leaders, and all who supervise and care for minors on your policies and best practices to protect children and other vulnerable persons.”

<https://www.presbyterianmission.org/legal-resources/creating-safe-ministries/>

Included in the full statement are links to resources.

Genesee Valley Toolbox for Session Sexual Misconduct Policies

The editions of the **Toolbox** series are posted on the PGV website in the dedicated folder of the Committee on Ministry: <https://pbygenval.org/committees/committee-on-ministry/sexual-misconduct-policies-resources/genesee-valley-toolbox/>

Pass this link to your Ruling Elders on your Session, to your church’s leaders, and to those who work with your children and youth.