

MANUAL:

MINISTERIAL MISCONDUCT AND MINISTERIAL SEXUAL MISCONDUCT POLICY AND PROCEDURE

For Virginia Mennonite Conference

Adopted by

Winter Delegate Assembly

February 2, 2019

Based on Policy and Procedure Manual
Published by Mennonite Church USA
and Mennonite Church Canada,
November 2016

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Based on November 2016 Publication by the following:

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Preface

As a denomination, Mennonite Church USA has provided a series of documents to help conferences and congregations deal appropriately with situations when unethical behavior and/or sexual misconduct of clergy persons are reported.

- On May 19, 2001 the VMC chair of the Conference Council and the chair of the Faith and Life Commission co-signed the *Ministerial Sexual Misconduct Policy and Procedure* document, providing guidelines for determining guilt or acquittal.
- In 2003 a companion piece became available, *Justice Making: The Church Responds to Clergy Misconduct*, that outlined procedures for implementation of the Misconduct Policy.
- In 2005, Virginia Mennonite Conference developed procedures for *Implementation of the Ministerial Sexual Misconduct Policy and Procedure in Virginia Mennonite Conference*, by identifying specific persons who are involved at all levels of the process. Then on July 28, 2005, the Conference Council adopted all three documents as the official policy of Virginia Mennonite Conference, under the title, *Manual: Ministerial Sexual Misconduct Policy and Procedure*.
- In November 2016, Mennonite Church USA and Mennonite Church Canada published an updating and combining of the previous three documents, entitled *Ministerial Sexual Misconduct Policy and Procedure*. That document has been adapted to fit Virginia Mennonite Conference organizational and leadership structures and apply to all ministerial misconduct. It was adopted by the VMC Conference Council on (date) to become VMC's official *Manual: Ministerial Misconduct and Ministerial Sexual Misconduct Policy and Procedure*.

It is important that proper procedures are followed when a complaint or an accusation is made. Biblical principles should be observed (Matthew 18:15-20). These documents establish channels for ministerial accountability in Virginia Mennonite Conference that give respect to all persons involved and reduce potential liability procedures.

This *Ministerial Misconduct and Sexual Misconduct Policy and Procedure* is offered with the prayer that God's Spirit will empower and enable our Virginia Mennonite Conference faith community, wherever we work together in the name of Jesus.

Theological Statement

As followers of Jesus Christ, we are called to participate in Christ's ministry of good news, healing and hope, peace and justice. We are called to bear witness to Christ's healing love in the face of violence, including sexual abuse.

All Christians are called to ministry to extend the work of Christ, yet Mennonite Church Canada and Mennonite Church USA (including Virginia Mennonite Conference) recognize that God calls particular persons in the church to specific credentialed leadership ministries, such as, but not limited to, that of pastors, chaplains, missionaries, teachers and *area conference ministers*. (See *A Shared Understanding of Ministerial Leadership*, pages 41-42, hereafter, *A Shared Understanding*.) These leaders are accountable to God and to the community of faith as they serve the Church. The character and reputation of these leaders is to be above reproach.

Sin is also part of our world, and when we sin, we turn away from our Creator, causing unrighteousness and injustice, which results in pain and brokenness. The Bible describes leaders as shepherds entrusted with the care of the flock, who are to serve and be an example (1 Peter 5:2-4). When leaders care for themselves in unhealthy ways at the expense of God's people, God will hold these leaders accountable for their behavior. The Lord will rescue the flock and shepherd the flock with justice so that the injured and weak are strengthened (Ezekiel 34:7-16). We believe the Lord requires the Church to be a part of this justice.

Ministerial Misconduct Policy.

Professional conduct is the expected norm for all credentialed leaders in the body of Christ. However, there are times when a credentialed leaders' behaviors, attitudes, and interactions with individuals lead to the conclusion that the credentialed leaders decisions marginalizing and /or inappropriately responding to others. There are a range of behaviors that can be considered in the category of unethical misconduct by a credentialed leader in *A Shared Understanding* (pages 69-70): violations of confidentiality, use of technology for illegal or immoral purposes, pornography, intentional deception or dishonesty, including misrepresentation of self in training or past records, acts of physical, emotional, or spiritual violence, gross neglect of ministerial responsibilities, financial irresponsibility or irregularities, failure to be accountable to the area conference that holds the credential, major theological deviation from Christian and Anabaptist/Mennonite understandings, the effort to harm the leadership of another pastor, and behaviors that undermine the congregation, another congregation, or the relationship with the wider Mennonite church.

Sexual misconduct or sexual abuse by a credentialed leader toward a person is a very serious offense. It is *ministerial sexual misconduct* for a *minister* to engage in *sexualized behavior* with a person with whom the *minister* has a *professional relationship*. The *minister* is always responsible to prevent and stop such behavior. (See *A Shared Understanding*, pages 68ff for a greater detailed list of what sexual *misconduct* includes.) The Virginia Mennonite Conference through its Faith and Life Commission is responsible for disciplining *ministers* who engage in such *misconduct*. Using this policy to address complaints of *ministerial sexual misconduct* applies to credentialed and non-credentialed *ministers*, whether the person remains in the church assignment or not, is dead or alive, refuses to cooperate with the area conference or relinquishes his/her credential.

When ministers engage in sexual misconduct, they sin against the person(s) abused, their own family, the congregation, and the office of ministry. If such misconduct occurs, the church acts first to protect the abused and prevent further harm. This is the first priority in a longer church process of seeking justice and healing for the person(s) who were abused. Disciplinary action also seeks the safety, healing and trust of the accused's family, the congregation, and the office of ministry. The process of discipline calls the offender to responsibility, repentance and healing. This *Ministerial Misconduct Policy and Procedure* statement will help guide the Church through this difficult journey.

Complaint Procedure

Section 1. Introduction

This procedure is a means for the Virginia Mennonite Conference to make factual determinations and apply sanctions regarding a minister who has been credentialed by the conference and against whom there have been lodged *complaints* of *ministerial misconduct*. The focus of this document is disciplinary.

The Virginia Mennonite Conference may address several *complaints* against a *minister* in one proceeding, or may conduct a separate proceeding for each *complaint*. The *conference* may use this procedure as a guide to address all *complaints* of *misconduct* including sexual *misconduct* (See *A Shared Understanding of Ministerial Leadership*, page 68-70.)

Long-ago Ministerial Sexual *Misconduct*. There is no statute of limitations, and therefore a *charge* of *ministerial sexual misconduct* may be brought for acts that allegedly occurred many years before. Reliability of memory and availability of witnesses and *evidence* should be taken into account when deciding whether to *charge*. In some such cases, the *conference* through its Faith and Life Commission Officers (or FLC Officers) may decide in consultation with Mennonite Church USA (hereafter, MC USA) that an adapted process of this procedure is appropriate to address the alleged *misconduct*.

Previously Disciplined Ministerial *Misconduct*. A *minister* who was previously charged with *misconduct* shall not be charged again for that situation, provided that the *area conference* that had *jurisdiction* for the *charge* confirms at the time of the new *complaint* that the *minister* has followed through with any requirements that arose from that previous *charge*. However, the *investigation* and the *judgment* in an earlier disciplinary proceeding will be considered when relevant to a current *charge* by the *conference*. Relevancy may include prior *misconduct* of the type described in a current *complaint*. Following a disciplinary process, if *complaints* from additional *complainants* come forward, the *area conference* will engage in another investigation.

If the executive conference minister is accused. Should there be *complaint* against the executive *conference minister*, the MC USA Leadership Office will facilitate this process and not *Virginia Mennonite Conference*.

Section 2. Definitions of terms used in this *Policy and Procedure*:

Clarity facilitates fact-finding and discipline. All words defined in this section are italicized throughout the document.

Appeal Panel: Three persons appointed by the *conference leadership* to hear a *minister's* appeal following a *judgment* determining that a *minister* engaged in *misconduct*. No member of the *appeal panel* shall be a member of the *Investigation Team*, a member of the FLC Officers, a member of the same congregation as the *minister*, nor have any relationship that materially affects impartiality.

Appellant: The *minister* or the *complainant* who registers an appeal to the *conference*.

Charge: Verb: Action by the *conference* to formally accuse a *minister of misconduct*, based on a written *complaint*. Noun: A formal accusation of *misconduct*, brought by the *conference*, based on a written *complaint*.

Complainant: One who alleges that a *minister* engaged in *misconduct*.

Complaint: A written allegation of *misconduct*, signed by a *complainant*, including the name of the accused and, as much as possible, the date, time, location, circumstances, names of any witnesses and other relevant information.

Conference: Virginia Mennonite Conference, a regional body of Mennonite congregations, covenanted together for purposes of mission, fellowship and credentialing. It is an area conference of Mennonite Church USA.

Conference Leadership: Officers of the Virginia Mennonite Conference, especially the conference moderator and executive conference minister.

Contact Person: A *contact person* for the *complainant* is appointed by the *executive conference minister* to assist the complainant in reviewing the *Ministerial Misconduct Policy and Procedure*, assist the person in putting the *complaint* into writing, assure that the written *complaint* is received by the *conference*, and remain the *contact person* for the *complainant* if a *charge* is brought. The accused *minister* will also be offered a *contact person*.

Credentia: Verb: To ordain or license a *minister* by the *conference* and/or to accept responsibility for the continued authorization of an ordained or licensed *minister* to act as a *minister*. Noun: The recognition of ministerial authority that is granted to a *minister* by the *conference*.

Evidence: Witness testimony, documents, objects or other information that make a claim or defense more likely or less likely to be true.

Executive Conference Minister: The staff *minister* who administers and coordinates Virginia Mennonite Conference activities, including the oversight of *credentials*.

Faith and Life Commission Officers (or FLC Officers): The *conference* committee that grants *credentials* (through its Credentials Sub-Committee) and administers the discipline process according to this *Ministerial Misconduct and Ministerial Sexual Misconduct Policy and Procedure*.

Investigation: Upon receipt of a written *complaint*, the conference's *Investigation Team* conducts an *investigation* to gather more information about the *complaint* in order to issue a report to the *Faith and Life Commission Officers*.

Investigation Team: 'Qualified and independent' persons appointed by the *conference* in a panel to investigate complaints of ministerial misconduct.-(See Section 5)

Judgment: Determination by the *FLC Officers* of whether a *minister* engaged in *misconduct* or did not engage in *misconduct*, based on the report of the *Investigation Team*.

Jurisdiction: The appropriate *area conference* to have disciplinary authority over the *minister* for whom a *complaint* has been filed. (See Section 4)

Minister: One who has been ordained or licensed to act as a *minister* in the *conference*, one who serves as a non-credentialed pastor in a *conference* congregation, or one who is an employee of an organization that the *conference* acknowledges to be *conference*-related or requires credentialing.

Ministerial Misconduct File: The *conference's* personnel file regarding a *minister's* *misconduct* or alleged *misconduct*, maintained by the *conference*. The national ministerial leadership office will receive a duplicate file from the *conference*.

Ministerial Sexual Misconduct: Sexualized behavior by a *minister*, involving one or more individuals with whom the *minister* has a *professional relationship*.

Misconduct: An act or omission by a *minister* that is contrary to the policies or principles of the *conference* based on *A Shared Understanding of Ministerial Leadership*.

Non-disciplinary Leave of Absence: A leave with pay, granted to a *minister* for non-disciplinary reasons, by a congregation or other employer at its discretion.

Personal Supporter: A person selected by the *complainant* or a person selected by the accused *minister* to provide pastoral care and practical support. (See Section 3D)

Policy and Procedure: This *Ministerial Misconduct and Ministerial Sexual Misconduct Policy and Procedure*.

Preponderance of Evidence: The greater weight of the evidence required for the *FLC Officers* to decide in favor of one side or the other.

Probable Grounds: Facts and circumstances that reasonably justify a determination that an alleged event has, more likely than not, occurred.

Probation of Credentials: The *credential* status given when the *minister* has been placed under close supervision for a specified period of time in order to determine whether the *credential* will be continued. At the conclusion of the probationary period, it is determined whether the *credential* becomes active, suspended or terminated.

Professional Relationship: The relationship between a *minister* and one who relates or has related to the *minister* as congregant, student, counselee, employee or in a comparable role, or a relationship where the religious role gives the *minister* privilege and power. A *professional relationship* does not include:

- A married *minister's* relationship with the *minister's* spouse; or
- An unmarried *minister's* dating relationship with an unmarried person with whom the *minister* has had a *professional relationship*, if the *minister* has clearly communicated to the person that the *minister* will not provide for any one-to-one

professional ministry care and there is acknowledgement and accountability with the *area conference minister*.

Sanction: Verb: To discipline a *minister*. Noun: A reprimand, the probation, suspension or termination of *credentials*.

Sexualized Behavior: Behavior by the *minister* in a *professional relationship* that shows sexual interest or a choice to make the sexual dimension overt in a relationship, whether orally, electronically, on paper or any other form of communication. (See *A Shared Understanding of Ministerial Leadership*, page 68 ff.)

A Shared Understanding of Ministerial Leadership, 2017, MennoMedia, Harrisonburg VA: The polity manual for Mennonite Church Canada and Mennonite Church USA that provides a common understanding of how we do things in the church, specifically in the area of church leadership. Also: *A Shared Understanding*.

Suspension of Credentials: The status given when the ministry *credential* is laid aside for a specific period of time for disciplinary reasons. Suspended *credentials* are not valid for performing ministerial functions.

Termination of Credentials: The status given when the *conference* has removed the *credential* because of a disciplinary action. The individual will no longer have any *credential*.

Section 3. Complaint by an Individual

A. Report of *Misconduct*. A person who believes that a *minister* has engaged in *misconduct* or *ministerial sexual misconduct* should contact the *conference* office (usually the *executive conference minister*) with a report of *misconduct*. If the *complaint* is against the *conference minister*, then the report is filed directly with the MC USA Leadership Office.

B. The *executive conference minister* will:

1. Report to governmental authorities any child abuse or other violation that requires reporting according to the laws of that state or province.
2. Give the *complainant* a copy of this *Policy and Procedure*. The *executive conference minister* should also, depending on the circumstance, encourage the *complainant* to seek medical and/or legal assistance. If there is a concern that the *complainant* is in physical danger or that a crime has been committed the *area conference minister* will immediately contact the police. This *Policy and Procedure* is not the *complainant's* only source of redress.
3. Assign a *contact person* to assist the person reporting *misconduct* in preparing a written *complaint*, and to walk with the individual through the process. Refer to Paragraph F. below regarding the content of the *complaint*. The *contact person* will not have supervisory responsibilities for the *complainant* or the accused *minister* nor have any other shared responsibilities related to the accused *minister* or the *complainant*.
4. Contact the Office for assistance in being accountable to this *Policy and Procedure*.
5. Contact legal counsel to assure that the *conference* is following regional laws.

C. The *contact person* will meet with the *complainant* to:

1. Review this *Policy and Procedure*.
2. Help the person put their *complaint* into writing.
3. Serve as the connector between *complainant* and the process.
4. Deliver the written *complaint* directly to the Office when it is against a *conference minister*. The Office will oversee this *Policy and Procedure*.
5. Encourage the selection of a *personal supporter*.

D. The *complainant* may select a *personal supporter*. *Personal supporters* shall not have supervisory responsibilities for the *complainant* or *minister* nor have any other responsibilities related to the *complainant* or *minister*.

E. The *personal supporter* will:

1. Provide pastoral care, practical support and assure the *complainant* has structures around them to help them be safe.
2. When requested, accompany *complainant* as an observer to meetings required by this *Policy and Procedure*.
3. Will not advocate to the *conference*, the *Faith and Life Commission Officers*, the *executive conference minister*, the investigation team or the *appeal panel*.
4. Make timely objection on behalf of the *complainant* to the investigation team or the chair of the *FLC Officers* if the *personal supporter* believes the *Policy and Procedure* is not being fairly administered.

F. The written *complaint* should include:

1. The name of the *minister*.
2. The name of the *complainant*.
3. The nature of the alleged *misconduct*.
4. Sufficient information about date, time, place and circumstance to specifically inform each incident of complaint. (Describe multiple incidents of alleged *misconduct* in separately numbered paragraphs.)

Section 4. ***Jurisdiction***

Following receipt of the written *complaint*, *jurisdiction* is determined to be lodged in one of the *area conferences*. *Jurisdiction* to address a *minister's* alleged *misconduct* exists in one of the following:

- The *area conference* receiving the written *complaint*, for its *credentialed and non-credentialed ministers*, whether the person remains in the church assignment or not, is dead or alive, refuses to cooperate with the *area conference* or has relinquished his/her *credential*.
- The *area conference* receiving the written *complaint* if the *minister* is serving as an agent of an organization which requires credentialing from the *area conference*.
- Any other *area conference* that *credentials* the *minister* (this applies to dual conference congregations).
- The *area conference* of the congregation in which the *minister* is or was previously serving even if there is no current *credential*.

The *conference minister* of this *area conference* shall inform any other *area conference* that currently holds the *credential* of the accused that a *complaint* of *misconduct* by the accused is being investigated. The *area conferences* will confer regarding which *area conference* shall exercise *jurisdiction*. Generally, but not always, *area conferences* will exercise *jurisdiction* in the order of priority shown above. If there is disagreement or lack of clarity about which *area conference* should take priority in exercising *jurisdiction*, the *area conferences* will confer with the Office, and that office may recommend which *area conference* shall exercise *jurisdiction*.

The disciplinary *jurisdiction* of the designated *area conference* is not limited because another professional accrediting entity is investigating or has investigated an allegation of *misconduct* by an accused *minister*.

Said *area conference* may not revoke accreditations that currently are extended by another entity, but is obligated to inform the accused minister's employer that a *complaint* has been received and will be investigated. However, this *area conference* has full and exclusive responsibility for the *credential*. If said *area conference* finds that a *minister* has engaged in *misconduct* that would warrant *sanctions*, this *area conference* may prohibit the *minister* from acting as a *minister* in this *area conference* or impose conditions that limit how the *minister* may serve in this *area conference* and impose restrictions on transferring a *credential* to another *area conference*.

After this *area conference* determines it has *jurisdiction*, *jurisdiction* shall continue until the *area conference* determines otherwise. *Jurisdiction* may continue after a *minister* has relinquished or lost *credential*. The designated *conference* is required and may be legally responsible to follow through in this process even if the congregation in which the accused *minister* serves does not want to participate in the process. If the accused *minister* refuses to cooperate with the *area conference* according to this *Policy and Procedure*, then his/her *credential* will be *terminated* immediately. Such refusal will be noted in the *ministerial misconduct file* that the designated *conference* maintains concerning the *minister*, which is shared with the MC USA Office and recorded in MennoData, the national data base for credentialed persons.

The *conference* will cooperate fully when law enforcement is involved. The *conference* will immediately suspend the accused *minister's credential*. On completion of that legal process the *conference* will proceed with this *Policy and Procedure*.

Section 5. Investigation

- A. Upon receiving a *complaint* that alleges *misconduct* by a *minister* and after *jurisdiction* by *Virginia Mennonite Conference* is determined, the *executive conference minister* as facilitator of this procedure will:
 1. Contact the MC USA Office that a *complaint* has been received, to provide accountability beyond the *Virginia Conference* and to determine if there are any possible related records. In the case where the *complaint* is against the *executive conference minister*, the complaint is sent by the contact person directly to the MC USA Office. That office will facilitate this *Policy and Procedure* and not the local *conference*.
 2. Consult with the MC USA Office to determine whether the *executive conference minister* has a conflict of interest with the *complainant* or the accused *minister*.

When a conflict of interest exists, the *conference leadership* will appoint an alternative facilitator of this *Policy and Procedure*.

3. Take steps to prevent any interaction between accused *minister* and the *complainant*.
4. Ensure confidentiality. The identity of the *complainant* is to be protected and is not to be named publicly and in any form of communication either directly or indirectly by the accused *minister* or anyone involved in the *investigation*.
5. Determine if immediate *suspension of credential* is needed and make an appropriate announcement. If the law is involved, the *conference* will immediately suspend *credentials* and cooperate with the authorities.
6. Notify the accused *minister* that a written *complaint* alleging *ministerial misconduct* has been filed and an *investigation* will be conducted. The *minister* may be informed of the identity of the *complainant*, unless there is a concern for safety of the *complainant*, and the *minister* shall be directed not to communicate with the *complainant* about the *complaint* either directly or indirectly.
7. Give the *minister* a copy of this *Policy and Procedure*.
8. Offer a *contact person* to assist the *minister* through the process.
9. Notify the leaders of the congregation in which the *minister* is serving (or other employer of the *minister*) and any other *ministers* for the congregation that a *complaint* has been received and give them this *Policy and Procedure* manual. Following consultation with the *executive conference minister* and legal counsel, the leadership of the congregation's governing board will make a congregational announcement such as: "(The named *minister*) has been granted a *leave of absence* from all responsibilities as *minister* while a *complaint* is being investigated. The fact that a *complaint* is being investigated does not mean that *misconduct* has occurred, but *conference* policy takes complaints of sexual abuse seriously and requires an *investigation*."
10. Recommend that the congregational leaders provide a paid *leave of absence* to the *minister*.
11. Assign the *conference's* established investigation team to investigate the complaints. Generally, the team will have at least three members (*at least one of whom is male and at least one of whom is female*) who are known to be fair, objective, honest, of mature Christian character and not from the accused *minister's* congregation. They should also be familiar with abuse, mental health, substance abuse, domestic violence and trauma issues. A professional *investigator* who has specialized in sexual abuse should be considered to work with the *investigation team*, especially when the complaint alleges sexual misconduct.
12. Following assignment of the Investigation Team, the *complainant* and the *minister*, may submit in writing to the *executive conference minister* within two days, objections about partiality or other unfairness perceived in team members. The resulting decision of the *executive conference minister* concerning the objection shall be binding for all purposes concerning the *investigation*, determination and appeal of the *complaint*, and any resulting *charge*. Partiality shall not be assumed because a person is a member or a leader in the *conference*.
13. Notify the *complainant* and the accused *minister* through the *contact persons* that an *investigation* will begin.
14. Locate personnel files including any *ministerial misconduct file* that the *conference*, former *area conference* and MC USA Office maintain concerning the accused *minister*. These files must be shared with the *investigation team*. Notify the

conference insurance carrier and follow required procedures while keeping the integrity to the process outlined in this *Policy and Procedure*.

- B. The *Investigation Team* will conduct an investigation, including:
1. Review the written *complaint*.
 2. Interview the *complainant* (who may have *personal supporter* present), to review any *evidence*, and request that the *complainant* give a signed written statement if they believe additional information may be needed to substantiate any of the allegations in the *complaint*.
 3. Interview the accused *minister*. Inform the *minister* of the nature of the *complaint*.
 4. Advise the accused *minister* that the *team* is willing to receive information and any statements by the *minister*. Inform the *minister* that any statement may be used in disciplinary proceedings. The *team* may, in their discretion, decline to show the signed written *complaint* if there is concern for safety, or if law enforcement or other civil authorities request that this not occur. If there are no such compelling reasons to not share the written *complaint*, the *minister* may receive a copy along with direction that within five days of the *minister's* receipt of the *complaint*, the *minister* shall deliver to the *investigation team* a statement, responding to each numbered allegation in the *complaint* stating:
 - a. That the *minister* agrees with the allegation, **or**
 - b. That the *minister* disputes the allegation and sets forth all the reasons the *minister* disagrees, as well as the *minister's* full account of each disputed incident that is alleged.
 5. Review any relevant *evidence* offered by the accused *minister* or the *complainant*.
 6. Interview other persons who may have relevant information. These persons will be informed of the need for confidentiality.
 7. Keep accurate records of interviews, including the date, parties present, and name of the recorder.
 8. If necessary, ask the *FLC Officers* to extend the time for concluding the *investigation team's* written report.
 9. Prepare a written report to the *FLC Officers*. The report shall be based, as much as feasible, on statements of witnesses with direct knowledge, rather than on secondhand sources or circumstantial *evidence*. The report shall include:
 - a. *Evidence* that the *investigators* believe supports the allegation that the *minister*, more likely than not, engaged in *misconduct* or *ministerial sexual misconduct* and the *evidence* that shows that the *minister* more than likely did not engage in *misconduct* or *ministerial sexual misconduct*.
 - b. Any reasons why the *investigators* believe they cannot present such *evidence*.
 - c. A recommendation to the *FLC Officers*:
 - To drop the *complaint* **or**
 - To *charge* the *minister*
 - d. Signatures and dates of all the members of the investigation team.
- C. Upon receipt of the report with recommendation from the *investigation team* the Chair of the *FLC Officers* will convene the officers:
1. Option - Decline to *Charge*.
If the *FLC Officers* receive the report and accept the recommendation from the *investigation team* to drop the *complaint* because there does not seem to be *probable*

grounds to support any allegation of *misconduct* or *ministerial sexual misconduct*, the Chair of the *FLC Officers* will:

- a. So inform the *minister* and the *contact person* in writing.
- b. So inform the *complainant* and the *contact person* in writing.
- c. Deliver the complete file to the *executive conference minister*, who will note the outcome of the *investigation*, record the resulting decision of the *FLC Officers* in the *minister's* file, and destroy all other records of the proceedings.
- d. Make appropriate reports to those involved and announce as widely as the earlier announcement about the original *complaint*.

2. Option - Bring a *Charge*.

If the *FLC Officers* believe that *investigators* have presented *evidence* that the *minister*, more likely than not, engaged in *misconduct* or *ministerial sexual misconduct*, the Chair will ensure the following steps take place:

- a. Change the *credential* status of the *minister* to either *suspended*, *probation* or *terminated*.
- b. File a *charge* with the *executive conference minister*, including:
 - 1) The name of the *minister*.
 - 2) The name of the *complainant*.
 - 3) The official *complaint* of *ministerial sexual misconduct*.
 - 4) Sufficient information about date, time, place and circumstance to specifically provide information about each incident of *complaint*. (Describe multiple incidents of alleged *misconduct* in separately numbered paragraphs.)
- c. Deliver the *charge* to the *minister* and the *contact person*. If personal delivery of the *charge* is not practical, then send by certified mail to the last known address with return receipt requested. Electronic mail is not appropriate. The *charge* will include direction that within five days of the *minister's* receipt of the *charge*, the *minister* will deliver to the Chair of the *FLC Officers* a signed statement, responding to each numbered allegation in the *complaint*, stating:
 - 1) That the *minister* agrees with the allegation, or
 - 2) That the *minister* disputes the allegation and sets forth all the reasons the *minister* disagrees, as well as the *minister's* full account of each disputed incident that is alleged in the *charge*.
- d. Inform the *complainant* and the *contact person* in writing that a *charge* has been filed by the *conference* and a *hearing* may take place.
- e. Upon receiving the *minister's* signed statement responding to the allegations, the Chair of the *FLC Officers* will convene the *officers* to review the response. If the *minister* agrees with the allegations, the committee will determine *judgment* and *sanctions* as outlined in Section 6.
- f. If the *minister* disputes the allegations, the *FLC Officers* will give notice to the *minister* that a *hearing* will be scheduled to begin within seven days.
- g. The *minister* will be further directed to avoid any communication with the *complainant* directly or indirectly for any reason.
- h. In cases alleging ministerial sexual misconduct, if there is no *FLC Officer* with professional competency in sexual abuse, the *officers* will consult with a professional who does have such competency and who has no history with the accused *minister* or the *complainant* for the duration of this proceeding.

D. Hearing

1. The chair of the *FLC Officers* will notify the *minister* and the *investigation team* of the date, time and location for the hearing.
2. The *complainant* will be notified of the hearing. The complainant is not required to be present at the hearing nor does the *complainant* need to testify.
3. The *FLC Officers* will hear the testimony of the *investigation team* (and their witnesses) and the *minister* (and the *minister's* witnesses).
4. The *FLC Officers* will make a *judgment* based on the testimony presented.
5. A written record of the hearing will be kept in the *minister's file* and will include the *investigation team's* report, the testimonies, and any additional information that came to light.

Section 6. **Judgment and Sanctions**

The *FLC Officers* will:

A. Determine a *judgment* stating whether the minister did or did not engage in *misconduct* or *ministerial sexual misconduct*.

1. If it is determined that the *minister* more likely than not DID NOT engage in *misconduct* or *ministerial sexual misconduct*, the committee, in its sole discretion, and depending on the circumstances, may:
 - a. Identify concerns regarding fitness for ministry and required steps.
 - b. Notify *minister* of *judgment* and any requirements if needed.
 - c. Affirm, support and recommend how congregational leaders may affirm and support the *minister* and the *minister's* continued ministry.
2. If it is determined that the *minister* more likely than not DID engage in *misconduct* or *ministerial sexual misconduct* the *FLC Officers* will inform the *minister* in writing through certified mail of the *judgment* and resulting *sanctions* imposed by the committee. A *sanction* that results in a *credential* status of *terminated* is a permanent sanction. When the *credential* status related to the *judgment* is *suspended* or *probation*, the letter will identify if this *credential* status will continue for a stated period of time or until further notice and include the details of each *sanction*. The letter will also include steps for determining, with external verification, that the *minister* is in compliance with all *sanctions* imposed by the committee. The *sanctioned minister's* word will not determine compliance.

B. Report to:

1. The *complainant* about the *judgment*.
2. The *conference leadership* regarding the *judgment* and *sanctions*, including a complete file, if the judgment is guilty, to be maintained in a *ministerial misconduct file*.
3. The congregation of the charged *minister* regarding the *judgment* and *sanctions*.
4. *Ministers* within the *Virginia Conference* of the *judgment* and *sanctions*.
5. The employer who was notified of a complaint, of the *judgment* and *sanctions* regarding the charged *minister*.
6. Other *area conference ministers* regarding the *judgment* and *sanctions*.
7. The MC USA Office, and submit the complete file, if the judgment is guilty.

C. Following reporting of the *judgment* and *sanctions*, the *FLC Officers* will update the *credential* status in the *minister's* file on MennoData. The status note section should

include the *judgment*, the date, the name of the *area conference* and the location of the *ministerial misconduct file*.

Reminder: A *credential* with the status of *probation*, *suspended*, *terminated* or *withdrawn* is not transferrable to any other *area conference*.

D. Monitor Compliance with *Sanctions*.

1. The *FLC Officers* will set the times and guidelines for determining compliance with the *sanctions*. External verification such as direct reports from a counselor, accountability group and/or another compliance entity will be used to determine the *minister's* compliance.
2. The *FLC Officers* may require the *minister* to appear before the committee at any time and may require additional *sanctions* if it finds that the *minister* is not in full compliance.
3. If the *minister* remains noncompliant, the *credential* will be *terminated*, recorded in MennoData and the committee will report the termination to all those who were earlier informed of the *judgment*.

E. Provide Follow-up Care

The FL Officers will assure follow-up care for the *complainant*, the complainant's family, the *minister*, the *minister's* family and for the congregation.

Section 7. ***Appeal***

An accused *minister* or the *complainant* may appeal the *judgment* and direct the appeal to the *conference leadership*. Upon request of an appealing *minister*, the *conference leadership* shall decide whether to delay the imposition of any *sanction*, pending outcome of the appeal.

- A. The appellant (either minister or complainant) shall give written notice of any appeal to the *conference leadership* within five days after the *judgment* by the *FLC Officers*. The notice of appeal shall be signed by the *appellant* and state all grounds for appeal of the *judgment*.
- B. The *appellant*, in writing, shall state facts and reasons that demonstrate why there are not *probable grounds* to support the *judgment*.
- C. Upon receipt of an appeal, the *conference leadership* shall appoint an *appeal panel* consisting of three persons, including a chair. No member of the panel shall be on the *investigation team*, a member of the *FLC Officers*, a member of the same congregation as the *appellant*, nor have any relationship that materially affects impartiality. The *appeal panel* members should also be familiar with abuse, mental health, substance abuse, domestic violence and trauma issues. One *appeal panel* member should have training in sexual abuse.
- D. The *appeal panel* shall:
 1. Inform the *minister*, the *complainant*, and the *FLC Officers* that there will be an appeal hearing on the *judgment*, including the date of hearing.
 2. Communicate the date, time, and place for the appeal hearing to the *appellant* and the FLC Officers.

3. Convene the appeal hearing with the *appellant* and FLC Officers and:
 - a. Read or otherwise identify the notice of appeal.
 - b. Allow the *appellant* to explain why the *appellant* believes there are not *probable grounds* to support the *judgment*.
 - c. Have one or more members of the FLC Officers review the *judgment* and the *evidence* supporting the *judgment*.
 - d. Deliberate in private and determine *judgment* by consensus (but in the absence of consensus, by majority vote).
 - e. Affirm the *judgment*, if the *appellant* was unable to demonstrate that there were not *probable grounds* to support the *judgment*. Generally, the *appeal panel* shall defer to findings made in the *investigation team's* report and the *judgment* of the *FLC Officers* and shall focus on whether the findings support the *judgment*.
 - f. Change the *judgment*, if the *appellant* was able to demonstrate that there were not *probable grounds* to support the *FLC Officers' judgment*.
 - g. Give written notice of the *appeal panel's judgment* to the *minister, the complainant, and the conference leadership*. Give appropriate notice to all others informed of the earlier *judgment*.
 - h. Give notice to the *FLC Officers* of the *appeal panel's judgment*. The *FLC Officers* will then follow through with applicable *sanctions* as outlined in Section 6.
 - i. Give minutes of the appeal hearing to the *conference leadership*. The minutes will be added to the *minister's ministerial misconduct file*. A copy of the minutes will also be sent to the MC USA Office.

Section 8. ***Credential Status of a Sanctioned Minister***

- A. When the *minister* receives a *judgment of ministerial misconduct or ministerial sexual misconduct* and the *sanction* is *termination* of the *minister's credential*, this is a permanent action and the *credential* cannot be re-instated.
- B. When the *credential* has been *suspended* due to a *judgment of misconduct* for a specified period of time, the *FLC Officers* will determine whether the *credential* will move to *probation* or *terminated*.
 1. The *FLC* officers will determine the status of the *credential* through external verification such as reports from an accountability group, counselor and other pertinent information. They shall determine whether contents of the reports are adequate to change the *credential*.
 2. The *FLC Officers* will notify the *minister* that the *credential* status has been changed from *suspended* to either *probation* or *terminated*. If they determine that *probation* status is a possibility, *sanctions* and accountability will continue for a specified period of time. The *FLC Officers* will continue to use external verification to assess whether the *minister* has, as a result of the *sanctions*, altered beliefs, attitudes and behavior before a final determination of *credential* status is made.
- C. *Termination of credentials* will occur if the FLC Officers determines that the *minister* is not fit for ministry or if the *minister* refuses to comply with the *sanctions*. Noncompliance will be determined through external verification. Noncompliance will also be determined by the *minister's* vocal refusal or by behavioral refusal including

moving away from the Virginia Mennonite Conference without notification to the Conference.

Disclaimer: Any error or omissions to the implementation of the process outlined above does not invalidate the process. Corrective action will be taken where possible. In addition, if any aspect of this procedure is found to violate the law in the legal jurisdiction in which the *investigation* is being implemented, that illegal action will not invalidate the rest of the protocol or the determination/outcome of the *investigation*. This *Policy and Procedure* should not be considered the sole source of redress for anyone who believes they are the victim of harassment or abuse. The focus of this *Policy and Procedure* is credentialing and licensing discipline for *ministers* only. This *Policy and Procedure* replaces and supersedes the earlier document copyrighted in 2000.