



**understanding &
IMPLEMENTING**

**Sexual Misconduct
Policy E-87**

**UNDERSTANDING AND
IMPLEMENTING SEXUAL
MISCONDUCT POLICY E-87**

**by Sarah McDugal
and Nicholas Miller**

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MEET THE
AUTHORS

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POLICY E - 87

The North American Division Working Policy E-87 on Sexual Ethics and Misconduct provides a thoughtful and robust starting point for responding to abuse in all Seventh-day Adventist organizations. The rising profile of sexual abuse and related litigation makes it increasingly important that the church take action to implement this protective policy at all levels.

E-87 is designed to support the church in four key ways. This policy provides:

1. a safe and supportive reporting avenue for those that believe they have been sexually abused or wronged by church employees or volunteers.
2. an objective and neutral decision-making mechanism that churches, conferences, and unions can rely on to

- investigate such claims.
3. a fair forum and procedure for both the accuser and accused to be heard by those trained to investigate these matters.
 4. It results in a recommendatory report to the church body or board responsible for oversight and discipline of the involved members.

E-87 provides a framework for integrity and consistency, outlining model procedures for all employees, volunteers, and endorsed chaplains. Our goal is to ensure all employees, volunteers, members, students, and lay members are aware of the policy.

PARTIES AND TERMS

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Reporter:

Any person, regardless of membership, alleging sexual misconduct by a denominational employee, approved volunteer or endorsed chaplain of a local church, school, or other church entity. Reporter may also be:

- a minor's parent/guardian, or
- the legal representative of an incompetent adult, or
- any other representative recognized by the Sexual Ethics Committee (SEC).

Respondent:

A denominational employee, approved volunteer (including

any church officer or position holder), or endorsed chaplain who is alleged to have committed sexual harassment or misconduct while employed or volunteering. A designated support person will assist the Respondent to understand the process.

Concerned Care Practitioner Pool (CCPP):

A pool of trained professionals (with degrees in theology, counseling, psychology, or other disciplines related to human care and nurture) who assist the Reporter in telling his or her story in verbal and written form, so it can be effectively communicated with the appropriate church leaders. Concerned Care Practitioners are designated by a conference, union or other church entity within the North American Division.

A list of CCPP members, or the website for contacting a CCP, should be available publicly so that any Reporter can easily access an appropriate CCP with whom they feel comfortable.

CCPs must be:

- members in good standing of a local congregation,
- free of bias and conflict of interest [e.g. not relatives or close friends of those involved, nor an employee of the institution under scrutiny], and
- knowledgeable and trained in the area of responding to sexual misconduct.

Why It's Important: Every region needs to have a clearly-defined group of trained, compassionate, unbiased intermediaries who function to maintain process with integrity and

protect victims from the double abuse of being ignored by those in authority.

Concerned Care Practitioners (CCP):

A CCP mediates between Reporter and church leaders, to gather Reporter's facts when a Reporter cannot or will not approach local church leaders. A CCP is encouraged to empathetically support and assist the Reporter in telling his or her story, but CCPs are not meant to act as therapeutic counselor, legal advocate, or independent fact gatherer.

Concerned care practitioners play a support role to the Reporter in gathering the Reporter's own facts, and assisting in writing a statement to submit to the Executive Officers. Their role is best understood as being a liaison between Reporter and Executive Officers to help prevent further trauma to the Reporter from the reporting experience. CCPs may be asked by the Executive Officers to continue in a supportive role during the investigation.

CCPs must maintain confidentiality according to law, and be free of bias. They are required by policy to reveal the facts gathered by the Reporter to those in administration. Again, while they should maintain the confidences of the Reporter, they must avoid creating a counselor-counselee relationship with the Reporter. Counseling should be offered, but not by the CCP. (See "Counseling Resources" under Additional Resources in Safe Churches: Responding to Abuse in the Faith Community training manual.)

Why It's Important: Approaching a panel of church leaders who may look much like the Respondent can be

traumatizing. We are responsible to protect victims from double abuse by providing trained intermediaries. Untrained fact-gatherers or victim liaisons may do more harm than good, even with the best intentions.

Designated Officers (DOs):

These are the Executive Officers of the relevant conference, union, division, or institution, who oversee the organization or entity that employed or appointed the Respondent. They are usually the President, Executive Secretary, and Treasurer/CFO.

If any of the Executive Officers is the Respondent, the Designated Officers for the case will usually be those in the same roles at the next higher level of the organization.

Why It's Important: No Accused party may run its own investigation.

Sexual Ethics Pool (SEP):

A group of qualified appointees from which the Sexual Ethics Committee (SEC) members are selected as needed.

Sexual Ethics Pool members must be:

- members of a local congregation in regular standing,
- free of predisposition, bias, or conflict of interest that may be material to the proceedings or issues involved, and
- knowledgeable and trained in the process of investigating sexual misconduct.

Why It's Important: Sexual misconduct is an explosive

topic, and we have a great responsibility to accurately reflect God's character in how we respond. Decision-making by untrained, biased individuals is likely to cause additional harm.

Sexual Ethics Committee (SEC):

A five-member committee appointed from the Sexual Ethics Pool (SEP) by the Designated Officers to consider the complaints. A majority of the committee should be laypersons to avoid an appearance of institutional conflict of interest.

Why It's Important: When an allegation arises there is no time to train on sexual ethics nor to figure out who should handle the situation. Clear, informed preparation and training should take place ahead of time in every region, to avoid:

- being out of compliance with NAD policy,
- mishandling allegations,
- allowing perpetrators to go free, and
- driving victims away from the faith community.

Discipline Committee:

The board responsible for overseeing and disciplining the church employee or volunteer that is the subject of the complaint. The Designated Officers determine which overseeing board is applicable, or assign one if necessary.

Sexual Harassment:

Unwanted sexual or romantic advances, requests for sexual favors, and/or other verbal or physical sexual conduct, which

may include but is not limited to:

- sexually suggestive comments or jokes
- crude language, and
- unwelcome proposed or physical contact of a sexual nature, which is made, either explicitly or implicitly, a condition of employment or volunteer relationship, used as a basis to affect those relationships, and/or creates an intimidating, hostile, and/or offensive environment.

Why It's Important: We often shrug off, ignore, or overlook interactions which are (or border on) sexual harassment. We cannot disregard sexual harassment and still glorify God.

Sexual Misconduct:

Improper sexual behavior including any of the following:

- actual or attempted sexual contact with a minor or with any person where there exists a relationship with inequality of institutional power, e.g., supervisor-and-employee, or pastor-and-member;
- actual or attempted rape or sexual contact by force, threat, or intimidation;
- criminal behavior of a sexual nature;
- possession, manufacture, distribution, or access with intent to view pornography, and especially child pornography.

Why It's Important: Any relationship of a sexual nature

where an institutional imbalance of power exists creates an environment where sexual misconduct is more likely. (See “Abuse Spectrum” under Additional Resources in Safe Churches: Responding to Abuse in the Faith Community training manual.)

Any sexual or romantic contact or behavior that includes manipulation, intimidation, etc., is sexual misconduct. More than physical contact must be assessed—CCP and SEC must review mental, emotional, and spiritual manipulation tactics involved.

The Spectrum of Sexual Harassment and Misconduct:

Improper sexual behavior may occur on a spectrum ranging from less severe offenses to very severe criminal offenses. It is important to remember that Sexual Harassment is a form of Sexual Misconduct, and falls under the Misconduct umbrella. Some organizations may choose to implement policy without differentiating between the two categories, and simply handle all cases based on the spectrum of Sexual Misconduct.

Submission:

The written report of allegations submitted by the Reporter. The CCP assists the Reporter through the emotionally difficult process of organizing their facts and in writing this document.

Why it’s Important: Verbal allegations cannot be ethically processed, so a victim must be willing to put their allegations in writing. Their name may be kept anonymous in some

cases to protect privacy and promote healing. If a victim is absolutely unwilling to put anything in writing, this presents a possible red flag regarding the legitimacy of the allegation.

Response:

A written response provided by the Respondent in reply to the Reporter's submission of written allegations.

Why it's Important: A written response is crucial in assessing honesty, sincerity, and genuine repentance if there was wrongdoing on the part of the Respondent. If wrongdoing is determined, we recommend requiring a detailed handwritten letter from the Perpetrator, as outlined in the chapter "Discerning Genuine Repentance" in *Safe Churches: Responding to Abuse in the Faith Community training manual.*)

Preponderance of Evidence:

Church discipline is not a criminal court of law. In criminal court, the evidentiary standard is 90% or higher. Church disciplinary procedures adhere to the civil preponderance of evidence rather than criminal, meaning that the evidentiary standard required is 50% plus a feather, or more likely than not, rather than beyond reasonable doubt.

People often misunderstand this reality, especially if they have an attachment to the Respondent. They may insist on the idea of "innocent until proven guilty in a court of law." What they do not consider is that the standard of proof is much higher in a criminal trial than in a civil case or a church proceeding. There are many reasons law enforcement may not bring a criminal case,

even where it is quite likely that an accused perpetrator is guilty. Private persons may not have the resources or expertise to bring a civil lawsuit based on the civil standard of a preponderance of the evidence. Faith communities operate on whether an allegation is more likely to be true than untrue, even in the realm of moral failure where criminal action is not present.

No one has an individual right to retain their roles in church leadership, service, or even membership.

PROCESSES AND RESPONSES

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Discerning False Allegations

A thorough, compassionate, investigative process is the best deterrent to counteract false allegations. E-87 helps to ensure that false allegations do not go undetected, and that the lives of innocent individuals are not destroyed as a result.

Clear, decisive preparation and training in every region should take place ahead of time to avoid the mishandling of allegations which might allow perpetrators to go free and victims to be driven away from the faith community. Mishandling may also allow successful leverage of false accusations against a Respondent who is not guilty of wrongdoing.

The guiding principles outlined in this document treat ac-

cusations seriously; the Concerned Care Practitioner is to operate under the framework of presuming the Reporter to be telling the truth. However, the Sexual Ethics Committee and the Designated Officers are expected to suspend judgment until written statements from both sides are submitted and evidence (which includes, but is not limited to, testimony) is reviewed.

When Allegations Constitute Criminal

Behavior

In cases with clear potential for criminal element, such as allegations of sexual assault or rape (as opposed to less severe allegations such as verbal harassment), the Reporter is encouraged to report directly to law enforcement. The CCP is intended to support the Reporter in doing so.

It would be inappropriate to alert the Respondent to any filing of a criminal complaint, as it is the responsibility of law enforcement to follow up without interference. However, the existence of a criminal investigation should not prevent the CCP and the Executive Officers from continuing with the church investigation and filing a report.

When the Reporter is a Minor

For allegations, suspicions, or knowledge of sexual misconduct involving a minor or involving pornography related to minors, it is crucial to immediately report to appropriate civil authorities and then notify Executive Officers of the report. The officers are expected to promptly inform risk management and take any necessary steps. All parties involved must cooperate fully

with law enforcement and relevant civil authorities or agencies.

In cases involving minors, it is extremely important not to alert the Respondent that an allegation has been reported to the authorities. Leave all interaction with the Respondent with regard to criminal matters in the hands of the authorities. This means:

- Do not give the Respondent a warning.
- Do not activate the church prayer circle.
- Do not ask for the other side of the story while preparing to report.
- Certainly, do not facilitate the Respondent disappearing or going into hiding from law enforcement or leaving the state. These actions could be considered obstruction of justice.

The CCP and Executive Officers should communicate with law enforcement as to whether immediate action will be taken by state authorities, in which case the church investigation may be paused to allow authorities to intervene. Should civil authorities, however, appear to not be taking immediate action, the church process should continue so as to prevent further harm from occurring. In these types of cases, it is important to consult with church legal counsel as to how best to proceed.

Costs and Expenses

Expenses for the investigative and disciplinary processes will generally be covered by the church entities, not the individuals; though in some circumstances, certain expenses could be charged to a party found to be guilty, at the discretion of the

disciplinary committee.

Explain Processes to Parties

Both Reporter and Respondent must receive an explanation of the process provided for within the policy. If disciplinary action is taken, all parties must receive an explanation of the actions being taken and what will happen as a result. Both parties must be officially and formally informed in writing of the decisions made by the disciplinary committee.

Personnel Files and Permanent Records

If a party is found more likely than not to be guilty, and the Perpetrator is an employee of any church entity, the Designated Officers must make permanent notations in his or her personnel file:

- showing that a complaint was made
- noting the findings of fact, and
- outlining the actions taken by the disciplinary committee.

This information should be shared with future ministry employers who seek employment references regarding the Perpetrator.

Criminal Investigations

It is a mistake to assume that because a Respondent was not convicted in court they are not guilty, or that they are still entitled to spiritual leadership or service in ministry. Under certain circumstances, such as those discussed above in cases involving minors, the church may momentarily pause the internal process, but only to prevent perpetrator flight or threat. Even if a criminal case is pending, the church has a duty to take action to protect

church members, and should likely suspend the employee or volunteer from their position for the duration of the criminal investigation.

Even if the evidence falls short of either a criminal conviction or prosecution, the church must continue to move forward with internal discipline, provided enough evidence exists to support the lower, civil standard of evidence.

When the Facts are Not Disputed

Under certain circumstances, the investigative process may be amended when the Reporter and Respondent agree on the facts. If so, the Designated Officers should move forward with the discipline process and the investigative proceedings may be truncated.

When a meaningful dispute of fact relating to guilt or innocence exists, a Sexual Ethics Committee should be convened.

Sexual Ethics Committee Processes

The sexual ethics committee should gather and review evidence, including testimonial evidence, only as a group with all five members present whenever possible. Members of the committee may not discuss or review the case outside of group meetings; the SEC essentially functions as an investigative jury.

The SEC may allow the Reporter and Respondent to bring witnesses who will speak for the actual facts of the case. The Respondent does not have the right to confront or cross examine the Reporter, but generally the members of the SEC should be given the opportunity to question the Reporter.

No audio or video recordings, and no verbatim transcripts are allowed of SEC meetings.

Rendering Findings of Fact

Findings of the SEC are to be expressed either as “more likely true than untrue” or “more likely not true than true.”

Findings of more likely untrue than true result in no further investigation of the Respondent.

Findings of more likely true than untrue result in activating the disciplinary process.

Handling Disciplinary Actions

In addition to what is provided in the E-87 policy, more options for disciplinary action are outlined in the church manual. If it is needed in order to protect the church, its members, or others, the Designated Officers may recommend to the Discipline Committee that the Respondent be placed on administrative leave (with or without pay, depending on the severity of the circumstances and the weight of the initial evidence), or that a volunteer should be prohibited from duties, until the conclusion of the investigation. Under such circumstances, the Respondent is removed from all church-related duties until the investigation has been concluded and findings have been issued.

The disciplinary process may include:

- an educative warning (i.e. in cases of very minor offense),
- a written reprimand,
- public censure,

- mandatory counseling,
- suspension or termination from employment, church position, or membership.
- a revoking of endorsement and/or credentials,
- a requirement that the perpetrator reimburses the expenses of the conference or the expenses of the victim for counseling, etc.
- and any other discipline deemed appropriate.

The Reporter must be informed of the DC decisions and any actions to be taken.

The E-87 policy is designed to handle the full spectrum of sexual abuse offenses, from criminal to minor harassment. This is not to imply that sexual harassment is not damaging, but rather to maintain the appropriate spectrum of response to non-criminal situations (e.g. a sexual assault should be treated differently than a summer camp volunteer making a series of off-color jokes or comments in a pattern that could be considered harassing).

Discipline Committee Decision Factors

The DC must consider multiple factors including, but not limited to:

- severity and frequency of known offenses,
- patterns of control or coercion,
- severity and duration of any injuries,
- number, age, and gender of victims,

- power imbalances present,
- contributing factors for risk of re-offense (use of pornography, history of deception),
- attitude of the perpetrator (see chapter on Discerning Genuine Repentance),
- nature of relationship between the parties, and so on.

When the Perpetrator is a Volunteer

Findings and disciplinary action related to a volunteer must be reported by the Designated Officers to the church entity or the organization which appointed them as a volunteer. Also, the local conference where the volunteer holds membership and the local church board must be informed of the findings and disciplinary actions.

The local church board must place findings and disciplinary actions on record in the minutes, and the conference should maintain a file relating to such incidents in its offices.

When the Perpetrator is an Endorsed Chaplain

Findings and disciplinary actions related to an endorsed Chaplain must be reported by the Designated Officers to the executive secretary of the NAD as chairperson of the credentials committee, and also to the chairperson of the NAD Adventist Chaplaincy Ministries committee.

After Discipline Committee Concludes

Once the DC has made its determination and decided on the disciplinary actions, the following appropriate responses to the

Respondent may take place:

- implement the actions determined by the DC,
- remove the accused employee from service,
- if continued employment is possible, require therapeutic counseling or treatment in combination with any disciplinary actions.

Therapists for Reporter and Respondent

Provide a list of qualified therapists to the Reporter to be utilized at their choice. Financial support for this purpose may be offered, where found to be appropriate, without implying or assuming guilt by the church or its institutions.

For the Respondent, if found guilty, the Designated Officers should choose a therapist qualified to deal with sexual misconduct and sensitive to issues of professional ethics. The perpetrator does not choose their own therapist. Therapeutic assistance should also be made available for the spouse and family of the perpetrator when needed.

The perpetrator's therapy requirement must be clearly communicated and closely monitored. A perpetrator cannot self-report on their participation or progress in therapy or counseling. Any therapist for the perpetrator must be provided with the statements from the victim and encouraged to check facts with those who are informed, in order to verify the transparent participation of the perpetrator.

For Minor Offenses

When a situation is so minor that the Respondent may continue working, their service may need to be limited during the rehabilitation process, to provide for accountability and protection of others. Any rehabilitation plan must be approved by a qualified therapist to protect other potential victims for the duration of the treatment plan.

A trained supervisor should be appointed to monitor the perpetrator's duties until therapy is completed and recommendations are made. Any reinstatement after taking paid or unpaid time off depends on recommendations from the therapist, supervisor, and members of the DC.

Communicating Findings and Actions to Outside Parties

A Designated Officer will inform the relevant conference, church, institution, and related entities regarding the results of the process. Special attention shall be given to disciplinary actions taken and their implications. A trained resource person must be available to assist the institution or congregation to address any concerns and bring healing to those impacted by the case.

When the Reporter Changes Their Mind

Sometimes, the process of investigation is extremely daunting to a Reporter. If credible evidence exists and a Reporter decides to no longer be involved, the committees and officers should continue the process regardless.

If there is enough evidence to keep going, the complaint is

not dropped. If the Reporter is a minor, regardless of whether the minor chooses to follow through with the process, the investigation must continue.

When Charges Are Filed Regarding a Minor

If charges are filed involving criminal acts against a minor and the perpetrator is prosecuted, the Executive Officers should assign someone to monitor the trial proceedings and report regularly to the church leadership. If the Respondent is convicted, the SEC and Designated Officers shall recommend removal from denominational employment or service.

No Appeals are Allowed

Findings are considered final, and E-87 does not allow for a process of appeals. This means it is absolutely crucial to avoid explicit or implicit bias among the SEC and to handle all proceedings according to policy.

CONCLUSION

Conclusion

The E-87 policy is well-thought-out, detailed, and an excellent process for handling the array of abuse situations that arise in the Seventh-day Adventist Church. The North American Division has laid out the procedure carefully in the Working Policy, and this supplementary resource is a concise yet comprehensive distillation of it.

The wise man said, “Show me a righteous ruler and I will show you a happy people. Show me a wicked ruler and I will show you a miserable people” (Proverbs 29:2, GNT).

As a church family, we have the opportunity to be ruled according to God’s timeless, immutable principles of righteousness, and to develop our church into the safe refuge this world so desperately needs.

SUGGESTED RESOURCES

E-87 POLICY

This explanation booklet is written to make the E-87 Sexual Ethics and Misconduct Policy more accessible for those involved in implementing it. We strongly suggest frequent reference to the original policy, which can be found in the **North American Division Working Policy**.

SAFE CHURCHES BOOK

Safe Churches: Responding to Abuse in the Faith Community is a training manual designed to equip your abuse response team and empower your organization. Safe Churches presents proven approaches to handling abuse at church in ways that are both biblically redemptive and legally responsible. **Available on Amazon.**

PROJECT SAFE CHURCH

Reports of sexual harassment or misconduct occurring in the Lake Union may be safely and confidentially reported to a Concerned Care Practitioner at **www.ProjectSafeChurch.org**.

