

ORTHODOX CHURCH IN AMERICA
POLICIES, STANDARDS, AND PROCEDURES
ON SEXUAL MISCONDUCT (PSP)

OVERVIEW OF MAJOR AMENDMENTS

(As approved by the Holy Synod of Bishops)

The recent changes to the Policies, Standards, And Procedures On Sexual Misconduct (“PSP”), originally adopted by the Holy Synod of Bishops on April 2, 2003 and revised October 2013, are principally intended to make the Policy less forbidding for a complainant to report a misconduct allegation. In this way, we hope that the probability that all allegations are immediately reported will be increased. As well, the Ruling Bishop, the Office for Review of Sexual Misconduct Allegations (“Office”), the OCA General Counsel, and the Special Legal Liaison to the Office, must be informed of all allegations of sexual misconduct. Further, response to these allegations will be conducted, monitored and/or reviewed by the Office.

In addition to the above, the definition of what constitutes sexual misconduct has been clarified. The principles and procedures in the case of a complaint against a Bishop have also been clarified. Requirements to help ensure the protection of minors in parishes have been added.

A Written Complaint Is Not Necessary

The previous version of the PSP required a formal and notarized complaint signed by the alleged victim before investigations would take place. In the revised version, the complaint does not need to be delivered in writing or notarized. The complaint may be oral, written, anonymous, or made by an identified complainant or third party.

All Allegations Will Be Taken Seriously and Investigated

All allegations will be treated with the same seriousness and fairness, without special tolerance or treatment for “special persons”, whether reported written or unwritten. All allegations will be investigated, to the extent possible, without exception, without regard to the actual or perceived probity, or mental, emotional, psychological or spiritual health of the person making the allegations. In the case of an alleged victim who is a minor, the requirement for a written complaint by the alleged victim or the parent/ guardian has been explicitly deleted. A “release of claims” is not permitted as a condition to commence investigation.

PSP 2.11 - Definition of Sexual Misconduct Is Clarified

The definition of “sexual misconduct” by a clergyman has been clarified to include any sexual relations and/or conduct that violate the teachings and/or canons of the Orthodox Church, while retaining the previous examples of abuse, harassment, exploitation, etc, for both clergy and lay workers. Additionally, the definition of sexual harassment has been expanded and further clarified in PSP 2.10.

The 2003 PSPs referred to the exploitation of a clergyman’s position in connection with “his sexual or emotional needs or desires.” The “emotional” aspect of this definition was deleted

because interpreting whether someone is acting in a manner to meet certain emotional needs can be subjective.

Both clergy and lay workers are required to avoid even the appearance of sexual impropriety. All clergy and lay workers are required to assist and cooperate with any sexual misconduct investigation.

PSP 7.01 (A) - Bishops Delegate Investigations to the Office

All competence to review and investigate allegations of sexual misconduct under the PSPs is delegated to the Office for Review of Sexual Misconduct Allegations (ORSMA). Enabling ORSMA to conduct all investigations on behalf of the dioceses prevents duplicate and possibly conflicting processes. Consolidating and streamlining the process under ORSMA further promotes the consistent application of these policies and procedures.

PSP 8.01- Allegations Must be Reported to more than one person

Any clergyman perceiving or believing that conduct/ comments of a clergyman or lay worker constitutes sexual misconduct must immediately report to the Ruling Bishop and the Office for Review of Sexual Misconduct Allegations. Additionally, clergymen are mandated to forward reports of misconduct (PSP 8.02). Forwarding a complaint is not the same as *making* a complaint.

A layperson perceiving or believing that conduct/ comments of a clergyman or lay worker constitutes sexual misconduct must immediately report it to the parish rector at the very least. If the rector is the subject of the complaint, it shall be reported to the Ruling Bishop and/or the ORSMA.

PSP 8.10 - Retaliation is Prohibited

Retaliation is not permitted against the alleged victim or anyone who in good faith made a complaint, or a report, or participated in the investigation. Complaints against retaliation are to be handled in same manner as sexual misconduct.

PSP 9.03 - Increased impartiality of investigations and fairness to the accused

This section seeks to give Respondents ample opportunity to respond to an allegation that has been made against him/her. During the course of an investigation, the Respondent will be able to provide names of individuals and/or documents that may be in support of his/her response. The Respondent may request extensions of time no longer than an additional 30 days to provide supplemental information. Additionally, the Respondent is entitled to be informed of the specific allegations within 21 days of the filing of the report (to the ORSMA).

Becoming the subject of an investigation can be psychologically distressing. To provide support to the Respondent, he/she is now allowed to be accompanied by a relative or friend to all interviews/meetings with the Response Team.

PSP 9.07 - Increased Fairness for the Alleged Victims/ Complainant

The statement that the “burden of proof” is on the complainant has been deleted. The previous version of the PSP was too subjective on this and an emphasis on burden of proof can stifle

complaints and resultant investigations. The current investigative practice is to rely on “balance of probabilities.” The reference to “work of clergy must not be impaired by unfounded accusations” has also been deleted as biased in favor of accused clergy.

PSP 9.08 - Final Recommendation Sent to Bishop/ Holy Synod by the Office

The report and recommendation of the Team which responds to the allegations (“Response Team”) is to be sent to the Office who, following review, will send it to the Ruling Bishop (or Holy Synod if the Ruling Bishop is the direct/ indirect subject of the complaint) together with the Office’s independent recommendation as to whether sexual misconduct has occurred.

PSP 8.01, 9.02, 10.01 - Procedures are Clarified In The Case Of A Complaint Against A Bishop

If the Ruling Bishop is the subject of a complaint, the Metropolitan will inform him and the Holy Synod of the complaint (and inform him of any possible suspension). The Holy Synod is to perform this function in case the Metropolitan is the direct/ indirect subject of the complaint. The Crisis Management Committee of the Metropolitan Council is to be immediately informed if a Bishop or a member of the central administration is the subject of a complaint.

If a Ruling Bishop is the direct or indirect subject of a complaint, the Metropolitan shall oversee the investigation (PSP9.02A) and make the final decision (PSP 10.01F). Should the Metropolitan become the direct or indirect subject of a complaint, the Holy Synod of Bishops shall oversee the investigation and make the final decision.

PSP 9.03(E) - When Respondent fails to respond to the allegations

There have been cases where, when a report is made to the Bishop and/or ORSMA, the accused person declines to respond to the allegations. An ecclesiastical decision cannot be made without giving the Respondent a fair opportunity to provide his/her “side of the story” within a reasonable amount of time (21 days). Cases also cannot go on forever unresolved. Therefore, when the Respondent declines to respond to the allegations made against him/her within the 21 days, the allegations shall be deemed admitted and the Ruling Bishop may then take ecclesiastical discipline.

PSP 11.01-11.06 Requirements are increased for protection of minors

Criminal background checks are now required for all volunteer and paid parish workers, including Sunday school teachers. Two adult male and two adult female chaperones are required for overnight male and female youth activities. Confessions or counseling sessions with youth should be done in non-private settings, with other adults in the general area.

PSP 12.01-12.06 Screening of applicants to Seminary and Holy Orders

ORSMA is now responsible for developing a uniform screening process for all persons who seek entry into an OCA seminary, for all men who are seeking ordination, and those clergy who seek to be received into the OCA. All current OCA clergy will also be subject to periodic screening. The frequency of such screenings which include criminal background checks is yet to be determined.