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**TITLE: Prevention and Reporting of Sexual Abuse**

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- I. **PURPOSE:** The West Virginia Convention of Southern Baptists (WVCSB), founded in 1970, is a network of over 200 independent Southern Baptist churches, as well as regional Associations, that work together to “make Jesus known in and through West Virginia.”<sup>1</sup> As such, we recognize that sexual abuse in any form is an abomination according to Scripture and with our mission and ministry.<sup>2</sup> Therefore, we are committed to the prevention and reporting of sexual abuse or neglect within our organization and to encourage and support our membership to do so as well. WVCSB will not tolerate any form of child sexual abuse in its program and will take all necessary steps to remove any offenders from WVCSB programs and activities within WVCSB’s authority.

This policy covers all conduct and communications with children and vulnerable adults, whether in-person, over the telephone or through writing or electronic communications such as email, text messages, social media, or similar communications.

- II. **THEOLOGICAL BACKGROUND:** WVCSB’s first accountability shall always be to God. As God’s people, we are required to fulfill His law. Romans 13:9-10 sets the foundation for that accountability when it tells us: ““You shall love your neighbor as yourself.” Love does no wrong to a neighbor; therefore, love is the fulfilling of the law. This love of others, not the ways of the world, must be the source and foundation of all decision making as an organization and guide the actions taken in all matters. Scripture also demands that we hold ourselves accountable to and obey worldly authority as well. 1 Peter 2:13, and Romans 13:1 all establish that governmental authority is chosen and established by God, and clearly states that we are responsible to obey that authority unless it violates the word of God.<sup>3</sup>

III. **DEFINITIONS:**

**A. Adult:** Any person over the age of eighteen years of age.

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<sup>1</sup> *WV Southern Baptists - WVCSB*. West Virginia Convention of Southern Baptists. (n.d.). Retrieved May 17, 2022, from <https://www.wvcsb.org/about/history/>

<sup>2</sup> *Baptist Faith & Message 2000*. The Baptist Faith and Message. (n.d.). Retrieved June 3, 2022, from <https://bfm.sbc.net/bfm2000/#xv>; Article 15

<sup>3</sup> Crossway Bibles. (2010). *The MacArthur Study Bible: English standard version* (ESV Text Edition: 2007).

- B. Child or Youth:** Any person under eighteen years of age. In this document, the terms are used interchangeably.
- C. Child Pornography** – as any visual depiction of sexually explicit conduct involving a minor (someone under 18 years of age). Visual depictions include photographs, drawings, videos, digital or computer-generated images indistinguishable from an actual minor, and images created, adapted, or modified, but appear to depict an identifiable, actual minor. Undeveloped film, undeveloped videotape, and electronically stored data that can be converted into a visual image of child pornography are also deemed illegal visual depictions under federal law. (18 U.S. Code §2256<sup>4</sup>)
- D. Sexual Abuse/Exploitation:** (definition provided in W. Va. Code §49-1-201<sup>5</sup>)
- (1) Sexual intercourse, sexual intrusion, sexual contact, or conduct proscribed by §61-8c-3 (Distribution and Exhibiting of Material Depicting Minors Engaged in Sexually Explicit Conduct) of this code, which a parent, guardian, or custodian engages in, attempts to engage in, or knowingly procures another person to engage in, with a child notwithstanding the fact that for a child who is less than 16 years of age, the child may have willingly participated in that conduct or the child may have suffered no apparent physical, mental or emotional injury as a result of that conduct or, for a child 16 years of age or older, the child may have consented to that conduct, or the child may have suffered no apparent physical injury or mental or emotional injury as a result of that conduct;
- (2) Any conduct where a parent, guardian, or custodian displays his or her sex organs to a child, or procures another person to display his or her sex organs to a child, for the purpose of gratifying the sexual desire of the parent, guardian, or custodian, of the person making that display, or of the child, or for the purpose of affronting or alarming the child;
- (3) Any of the offenses proscribed in §61-8b-7 (sexual abuse in the first degree), §61-8b-8 (sexual abuse in the second degree), or §61-8b-9 (sexual abuse in the third degree) of the West Virginia Code.
- (4) Examples of Sexual Abuse include:
- a) Fondling private parts
  - b) Oral, genital, or anal penetration

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<sup>4</sup> *Citizen's Guide to U.S. federal law on child pornography*. The United States Department of Justice. (2020, May 28). Retrieved May 24, 2022, from <https://www.justice.gov/criminal-ceos/citizens-guide-us-federal-law-child-pornography>

<sup>5</sup> *Article 1. general provisions and definitions*. WV Code § 49-1-201. (n.d.). Retrieved May 18, 2022, from <https://www.wvlegislature.gov/wvcode/chapterentire.cfm?chap=49&art=1§ion=201>

- c) Sexual intercourse
- d) Forcible rape
- e) Suggestive sexual comments or communications
- f) Showing pornography (sexually explicit materials)
- g) Exposing sex organs
- h) Allowing children to witness sexual activity

(5) 'Sexual exploitation' means an act whereby a parent, guardian, or custodian does any of the following:

- Whether for financial gain or not, persuades, induces, entices, or coerces a child to engage in sexually explicit conduct defined in § 61-8c-1;
- Persuades, induces, entices, or coerces a child to display his or her sex organs for the sexual gratification of the parent, guardian, custodian, or a third person or to display his or her sex organs under circumstances in which the parent, guardian, or custodian knows such display is likely to be observed by others who would be affronted or alarmed; or
- Knowingly maintains or makes available a child for the purpose of engaging the child in commercial sexual activity in violation of § 61-14-5.

(6) Under West Virginia law, children are incapable of consenting to sexual acts. Accordingly, sexual interaction with a child is considered forced.

**E. Mandatory Reporters:** (based on W.Va. Code § 49-2-803)

Statutorily designated persons who are required by law to **immediately report** suspected child abuse, including child sexual abuse, to the Department of Health and Human Resources or law enforcement. For the WVCSB, this specifically includes ministers and all WVCSB employees. In addition, many non-employee church members and attenders may be mandatory reporters due to their occupations or activities outside the church. A **mandatory reporter** who has reasonable cause to suspect that a child is neglected or abused, including sexual abuse or sexual assault, or observes the child being subjected to conditions that are likely to result in abuse or neglect shall immediately, and not more than **24 hours** after suspecting this abuse or neglect, report the circumstances to the Department of Health and Human Resources. In any case where the reporter believes that the child suffered serious physical abuse or sexual abuse or sexual assault, the reporter shall also **immediately report** to the State Police and any law-enforcement agency having jurisdiction to investigate the complaint. Any person required to report under this article who is a member of the staff or volunteer of a public or private institution, school, entity that provides organized activities for children, facility, or agency shall also **immediately notify** the person in charge of the institution, school, entity that provides organized activities for children, facility, or agency, or a designated agent thereof, who may supplement the report or cause an additional report to be made: *Provided*, That notifying a person in charge, supervisor, or superior

does not exempt a person from his or her mandate to report suspected abuse or neglect.

**F. Sexual Contact:** (definition provided by W. Va. Code § 61-8B-1(c)(6))

“Sexual contact” means any intentional touching, either directly, or through clothing, of the breasts, buttocks, anus or any part of the sex organs of another person, or intentional touching of any part of another persons’ body by the actor’s sex organs, where the victim is not married to the actor and the touching is done for the purpose of gratifying the sexual desire of either party.

**G. Vulnerable Adult:** any person over the age of 18 who by reason of physical or mental condition is unable to independently carry on the daily activities of life necessary to sustaining life and reasonable health and protection<sup>6</sup>

#### IV. POLICY

##### A. Prevention of Sexual Abuse

- (1) WVCSB shall make the prevention of sexual abuse an operational priority and is committed to protect children and vulnerable adults to whom WVCSB ministers.
- (2) The WVCSB shall develop a written Procedure manual, which includes the development of a reporting system, specifying the process and requirements to be followed in the implementation of said policy, no later than July 1, 2023.
  - a) A task force will be appointed and shall be responsible for the development and completion and implementation of the Procedure Manual.

##### B. Churches and Persons Covered

- (1) All existing WVCSB churches and associations affiliated with the WVCSB after the date of the adoption are strongly recommended to develop a similar policy. Any new church or association requesting affiliation with the WVCSB shall demonstrate the adoption of a similar policy as a requirement for WVCSB membership. The WVCSB does not approve, monitor, or enforce the sexual abuse policy of the churches or associations.
- (2) All WVCSB staff, paid and unpaid, including volunteers, shall be required to fully comply with this policy and its procedures.
- (3) This policy is only applicable to WVCSB.

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<sup>6</sup> *Article 6. Social Services for adults.* WV Code § 9-6-1. (n.d.). Retrieved May 18, 2022, from <https://www.wvlegislature.gov/wvcode/chapterentire.cfm?chap=9&art=6&ion=1>

- C. Training:** All WVCSB staff, paid and unpaid, including volunteers, shall be trained on the prevention and reporting of sexual abuse, as well as survivor care.
- D. Employment And Volunteer Approval:** The WVCSB (hereinafter also referred to as “Employer”), in performing its duties and responsibilities as an employer, shall use professional Human Resources best practices in the hiring and retention of staff as part of their sexual abuse prevention plan, including but not limited to the following:

(1) The Application

- a) All applicants for employment with WVCSB must complete a written application prior to being considered for service to the Employer, which must include three written references.

(2) Employment Practices

a) *Record Keeping*

Accurate record keeping is an essential part of hiring and supervision practices of the Employer. The Employer must maintain a personnel file on every employee. The file should contain the application for employment, any employment questionnaires, background checks, references responses, and all other documents related to an employee’s employment, except records which may be required, by law, to be kept in separate files.

(3) Prescreening Applicants

- b) Employers must establish thorough and consistent hiring practices. If an applicant is unknown to the Employer, the Employer should confirm the applicant’s identity by requiring photographic identification such as a driver’s license. The Employer must perform a background check, including a national criminal background check, on all applicants. At the effective date of this policy, all background checks must be completed and acted upon for all new applicants prior to the beginning of any services being provided by that person at the expense of the WVCSB. For staff and WVCSB volunteers, who are already providing services at the effective date of this policy, for whom there is not a criminal background check on file with the Employer, a criminal background check must be completed as a requirement for continued service at the expense of the WVCSB.

1. WVCSB volunteers are defined as Convention Officers, Convention Executive Board members, WVCSB Disaster Relief Coordinator, and Sexual Abuse Program Coordinator.
2. Non-WVCSB volunteers are sent as part of the church to assist the WVCSB in ministry efforts to include, for example,

disaster relief, youth and children's events, and camp counselors.

3. Non-WVCSB volunteers will be required to complete an application to serve in those positions. That application will be completed by the volunteer with a certification from the church leadership that will also indicate a background check has been completed and is on file at the church. Either the church or individual will be required to pay for the background check prior to the application being certified.

- c) The procedure manual for sexual abuse will contain specific instructions for the completion of criminal background checks.

Part of pre-employment screening should include specific questions related to discovering previous complaints of sexual misconduct. See Appendix A.

#### (4) References

The Employer is responsible for contacting references for prospective

- a) References for Potential Employees. A written record of conversations or correspondence with references should be kept in the employee's personnel file. All written records shall be dated.

If false or misleading information is given by the applicant, or relevant information is withheld, the applicant should be eliminated from consideration.

Applicants should be informed of negative comments regarding sexual abuse or misconduct and shall be given an opportunity to submit additional references or to give other evidence to correct or respond to harmful information obtained from a reference.

If a prospective volunteer refuses to submit to a criminal background check, that person is ineligible to be a volunteer.

- b) Person with WVCSB authorized to give references. The person authorized to give a reference is obligated to give truthful information regarding allegations, inquiries, and administrative or disciplinary action related to sexual abuse/misconduct of the applicant. Please refer to the Policy on Sexual Misconduct.

## **E. Responsibility**

### **(1) Receiving Reports of Sexual Abuse.**

Because WVCSB and others cannot control to whom the victim of sexual misconduct will speak first, it is important that officers, employees, and persons highly visible to church members and visitors understand how reports of incidents are channeled to the proper person. The allegations may come from persons who have or who do not have a formal relationship with the WVCSB and may be made to a variety of officers or leaders within the WVCSB. It is the

duty of these officers to see that any allegation of sexual abuse is reported appropriately keeping in mind the mandatory reporting requirements for allegations of child abuse and abuse of vulnerable adults.

Reports of allegations of sexual abuse should never be taken lightly or disregarded and allowed to circulate without concern for the integrity and reputation of the victim, the accused, and the church. Reports of allegations should be dealt with as matters of highest confidentiality, both before and after they have been submitted to appropriate authorities. See the guidance below on interacting with victims.

Follow the guidance below if a child or vulnerable adult indicates that he or she may have been the victim of sexual abuse or exploitation.

- **DON'T** panic or overreact to the information disclosed by the victim.
- **DON'T** criticize the victim.
- **DO** respect the victim's privacy. Take the victim to a private place (but within sight of others). Reassure the victim that you are concerned about what happened to him or her and that you would like to get him or her some help. Do not promise to keep his or her secret, as it will be necessary to make a report to an appropriate leader. The appropriate leader will advise you of the responsibility to report to West Virginia Department of Health and Human Resources, West Virginia Adult Protective Services and to a law enforcement agency. You may want to ask if he or she has talked to his or her parents about the abuse – if a parent was not the alleged abuser.
- **DO** encourage the victim to tell the appropriate authorities. You may do this by making sure the victim feels that he or she is not to blame for what happened. Tell the victim that no one should ask him or her to keep a special secret and that is OK to talk about what happened with appropriate adults – that the victim will not be blamed
- **DO** keep it strictly confidential. Discussing allegations of sexual abuse with others may result in a lawsuit for defamation of character. Take your guidance from the appropriate leader or the authorities to whom you reported.

The person receiving the initial report of allegations of sexual abuse shall analyze the relationship of the person accused of sexual abuse with the WVCSB and shall make sure that the allegations of offense are also filed with the church or affiliate with jurisdiction over the person accused. This may be done by the person alleging harm or by any member of the WVCSB.

If the report is made orally, the person receiving the report of allegations should request that the person making the report of allegations place it in writing. A report of allegations of sexual abuse in writing alleging an employee, volunteer or officer of the WVCSB committed an offense must be acted on by WVCSB. If the person who makes the report is unwilling or unable to place it in writing, any member of the WVCSB may record the written statement.

**(2) Reporting of sexual abuse.**

- a) The WVCSB has both a spiritual duty and a legal obligation to report all allegations of suspected child sexual abuse and child pornography to the appropriate authorities. In compliance with WV Code §49-2-803, the WVCSB and other mandatory reporters covered by this policy shall report all suspected child sexual abuse and child pornography to the West Virginia Department of Health and Human Services and the West Virginia State Police or any law-enforcement agency having jurisdiction to investigate the complaint as soon as possible but no later than 24 hours.<sup>7</sup>
- b) In compliance with WV Code §9-6-11, the WVCSB and its other mandatory reporters covered by this policy shall report all suspected sexual abuse against vulnerable individuals 18 years of age and older. Reports shall be made immediately, and not more than 48 hours after suspecting abuse, to WV Adult Protective Services and a law-enforcement agency with jurisdiction.<sup>8</sup>
  - i. While 48 hours is the maximum allotted amount of time under West Virginia law, the WVCSB recommends that reports be made as soon as possible, within 24 hours.
- c) The person making the report is not required to have proof that abuse has occurred prior to making the report, only a reasonable suspicion of child sexual abuse. The law requires that suspected child abuse be reported as soon as it is suspected, but no later than 24 hours. Failure to do so may result in civil or criminal penalties. Concern is often expressed over the potential for criminal or civil liability if a report of an abuse is made that subsequently is found to be unsubstantiated. West Virginia law provides immunity from liability to those who report suspected child abuse. The only requirement states make is that the report is made “in good faith.” As a cautionary note, those governed by this policy are not investigators of allegations of sexual abuse. Such investigations are best left to the trained investigator.
- d) It is the policy of WVCSB to encourage all Members and regular attenders, whether or not they are mandatory reporters, to report suspected child abuse,

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<sup>7</sup> *West Virginia code 49-2-803*. West Virginia Code. (n.d.). Retrieved May 17, 2022, from <https://code.wvlegislature.gov/49-2-803/>

<sup>8</sup> *West Virginia Code 9-6-11*. West Virginia Code. (n.d.). Retrieved May 17, 2022, from <https://code.wvlegislature.gov/9-6-11/>

including child sexual abuse, of any child who has had contact with WVCSB or a WVCSB pastor.

In addition, Members and regular attenders are urged to report suspected abuse to the West Virginia Department of Health and Human Resources or law enforcement. If the Member or regular attender is a mandatory reporter, it is expected that they *will* report suspected abuse to the West Virginia Health and Human Resources and law enforcement with jurisdiction in accordance with their legal obligation to do so.

- e) Under WV Code §49-2-811<sup>9</sup> and WV Code §9-6-13<sup>10</sup>, the clergy privilege is abrogated in situations involving the abuse of children or vulnerable (at-risk) adults.
- f) If an allegation is made to the WVCSB of sexual abuse of a person 18 years of age or older, who is not a vulnerable adult, the reporting adult should be encouraged to report to law enforcement or allow reporting to law enforcement by WVCSB staff designated to do so, a written report shall be maintained, and survivor-care support shall be provided.
- g) Under West Virginia Codes §49-2-81011 and § 9-6-1212, any persons, official or institution shall be immune from any civil or criminal liability which might otherwise arise solely out of making a report in good-faith. Likewise, the WVSBC will not hold any individual/church responsible for making reports of sexual abuse where the allegations were made in good faith.
- h) Nothing in this policy is intended to prevent or limit individuals who are not mandated reporters from reporting alleged sexual abuse on their own behalf.

**(3) Investigation:** WVCSB will cooperate with investigations by appropriate law enforcement authorities. In addition, all cases of sexual abuse of a minor committed by WVCSB clergy and employees may be subject to review by WVCSB in order to provide the necessary information to determine the appropriate course of action to the extent that such review does not interfere with law enforcement's investigation. Every effort will be made to maintain confidentiality so as to protect the rights of all parties concerned.

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<sup>9</sup> *West Virginia Code 49-2-811*. West Virginia Code. (n.d.). Retrieved May 17, 2022, from <https://code.wvlegislature.gov/49-2-811/>

<sup>10</sup> *West Virginia Code 9-6-13*. West Virginia Code. (n.d.). Retrieved May 17, 2022, from <https://code.wvlegislature.gov/9-6-13/>

<sup>11</sup> *West Virginia Code 49-2-810*. West Virginia Code. (n.d.). Retrieved May 17, 2022, from <https://code.wvlegislature.gov/49-2-810/>

<sup>12</sup> *West Virginia Code 9-6-12*. West Virginia Code. (n.d.). Retrieved May 17, 2022, from <https://code.wvlegislature.gov/9-6-12/>

#### **(4) Confidentiality/Communications/Media**

- a) The WVCSB shall maintain a confidential, permanent, written record of all allegations of sexual abuse reported, including an explanation of any unreported allegation.
- b) The WVCSB shall maintain the confidentiality of all reported allegations of sexual abuse. Information will be shared on a need-to-know basis only. All written or electronic reports must be kept in a secure, locked location without general access. All electronic records will be password protected.
- c) The Communications Director shall be the only staff authorized to respond to or initiate communications with the media. Content of all statements to the media shall first be reviewed and authorized by the Executive Director and the President of WVCSB.

#### **(5) Retaliation**

- a) WVCSB shall not retaliate or take any adverse action against any staff, including volunteers, or any other individual who reports, complains about, serves as a witness in, or participates in the investigation of a possible violation covered by this policy, unless the complaint or report is deliberately false. Retaliation in the workplace may be characterized by, but not limited to termination or retraction of benefits, demotion, lowering compensation, victimization, shunning, shaming or threatening behavior toward the individual, unsatisfactory work performance evaluation, exclusion from events or meetings, and defamation of character.
- b) Retaliation or attempted retaliation in response to lodging a complaint or invoking the complaint process is a violation of this policy. Any person who is found to have violated this aspect of the policy will be subject to sanctions up to and including termination of employment. Volunteers found to have violated any aspect of the policy may be asked to step down from serving in specific roles, vacate leadership positions, and/or terminate their membership.

**F. Liability and Insurance Guidance:** The WVCSB can be held liable for harm caused by sexual misconduct of an officer, volunteer, or employee based on a number of legal theories. WVCSB should take such potential liability into consideration when establishing hiring and supervisory practices.

WVCSB should regularly inform their liability insurance carriers of the activities and programs they operate or sponsor and of the duties and responsibilities of officers, employees, and volunteers. The standard insurance policy should usually be enhanced by endorsements to cover specific exposures such as camps, disaster relief, or other outreach/evangelistic programs.

The WVCSB also recommends that churches obtain an endorsement to their general liability insurance policy specifically covering sexual abuse and molestation. Such coverage may provide for legal defense expenses and judgments in civil suits brought against the churches, its officers, directors, or employees.

#### **G. Other Policies and Procedures**

- (1) WVCSB will allocate funding in the budget targeted for use in the implementation of the procedures developed for the prevention of sexual abuse, as well as survivor care.
- (2) The WVCSB shall update the “General Policies and Procedures for Office and Employees” policy to include the prohibition against the possession, creation, use, copying, sharing, dissemination, receiving, or selling of pornography in any form on WVCSB property, on any device owned by the WVCSB, in vehicles owned or leased by WVCSB, and at any meeting or event under the authority of the WVCSB. Personal property containing pornography in any format and used in any manner shall also be prohibited.
- (3) The WVCSB shall develop and adopt a Code of Ethics which all staff (paid or volunteer) will be trained on and agree to as a condition of their employment and/or service with the WVCSB.
- (4) The WVCSB shall develop instructions in the procedure manual addressing how to handle allegations of sexual abuse when it involves visitors, vendors, contractors or other third parties who provide services to the WVCSB onsite or at locations and events that are under the authority of the WVCSB.
- (5) The WVCSB shall provide guidance and resources to member churches and/or Associations to encourage and lend support in developing their own individual church/Association policies regarding the prevention and reporting of sexual abuse if requested.
- (6) WVCSB shall adopt a policy to require training for all staff and volunteers on sexual abuse and shall require them to provide written acknowledgment of participation and completion of such training.
- (7) WVCSB does not conduct the hiring process for vacancies within churches or associations of the members of WVCSB. WVCSB will advise at the request of the churches the best practices for the hiring process.
- (8) WVCSB does not maintain control over the member churches or associations of the WVCSB in the application of any policy that the churches or associations have adopted.
- (9) WVCSB will not monitor the members operations to ensure their policies are properly carried out.

**V. EXCEPTIONS:** None

**VI. SUPERCESSION:** This policy does not supersede any previous policy.

**VII. APPROVED:**

**SIGNATURE:** \_\_\_\_\_ **EFFECTIVE DATE:** \_\_\_\_\_

**TYPED NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

## Appendix A

WVCSB should ask persons seeking for employment in all positions questions such as:

- a. Has a civil, criminal, or ecclesiastical complaint ever been sustained against you involving sexual misconduct by you?
- b. Have you ever resigned or been terminated from a position for reasons relating to allegations of sexual misconduct by you?
- c. If so, indicate the date, nature and place of these allegations, and the name, address, and telephone number of your employer at that time.