

Guidelines

For
Resourcing
Committees on the Ministry



***A Resource for Response Teams, Conference Staff Persons, and
Others Assisting Association Committees on the Ministry in the
United Church of Christ during Fitness Reviews***

Parish Life and Leadership Ministry Team
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Local Church Ministries
(A Covenanted Ministry of the United Church of Christ)

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INTRODUCTION AND BACKGROUND

The United Church of Christ *Manual on Ministry* provides detailed procedures for conducting a Fitness Review, including the recommendation that response teams help Association Committees on the Ministry manage their workload and avoid multiple roles that could lead to conflict of interest or perceived bias. Typically, Conferences or Associations form response teams—pools of trained persons who stand ready to assist the committee—to help the committee either in gathering information or in providing pastoral care and support to parties directly impacted by the Fitness Review.

In addition, Conference staff persons may receive training to provide staff support to members of response teams and to Association Committees on the Ministry.

This resource provides information regarding:

- current thought and practice that offer guidance for providing support, gathering information, and coordinating efforts during a Fitness Review. These guidelines have applicability for all Fitness Reviews, regardless of the specific issues of fitness addressed.
- issues related specifically to pastoral sexual misconduct. Growing out of prior materials prepared by the Office for Church Life and Leadership, these guidelines offer Conferences and Associations ways to address questions of pastoral misconduct involving sexual contact or harassment within the pastoral relationship.

This particular resource is offered by the Parish Life and Leadership Ministry Team of Local Church Ministries (A Covenanted Ministry of the United Church of Christ.) As you use this material, we invite you to convey your comments and suggestions for ways it can be strengthened in the future to the staff of the Parish Life and Leadership Ministry Team.

May God bless and guide you as you work at this difficult and important area of the church's life and ministry.

The Parish Life and Leadership Ministry Team

February, 2001

RESOURCING COMMITTEES ON THE MINISTRY DURING A FITNESS REVIEW

Response Team Formation

Response Team Functions

Many Conferences and Associations of the United Church of Christ form response teams to assist the Association Committee on the Ministry during a Fitness Review. The teams assist primarily by gathering information to inform the committee's deliberations and decision-making and by providing pastoral support to the principal parties affected by the review.

Response team members often PROVIDE SUPPORT for the person raising the question and his or her family, the authorized minister under review and his or family, and the local church or other calling body. The presence of trained support persons enables the Committee on the Ministry to focus on examining the information with assurance that the church is also providing care and concern to the involved parties.

Other members of the response team GATHER INFORMATION to help the Committee on the Ministry ascertain whether the question raised is one affecting ministerial fitness. If the committee determines this to be the case, the response team conducts additional interviews and provides interview summaries and, if requested by the committee, may share their own perspectives and assessments as well.

The response team must have a sufficient number of persons to provide a separate support person for each principal party and different teams of persons to gather information.

Conferences and Associations are encouraged to have trained response teams formed prior to a question being raised about ministerial fitness. If the training is not possible ahead of time, a list of pastors and laypersons who are willing to be trained and provide assistance would be helpful.

Participation

Because Fitness Reviews require a timely response, many Conferences or Associations find it helpful to train a large pool of persons from which a response team for a given situation may be selected. A large pool of trained persons ensures adequate information-gathering and support without asking persons to engage in multiple roles and functions inappropriately.

The composition of the team may include:

1. Former members of the Association Committee on the Ministry. Often, these persons are astute about such concerns and may find a response team a meaningful way to serve the Conference or Association.
2. A good balance of men and women.

3. A good balance of laypersons and authorized ministers.
4. Persons who work in areas related to personnel or human relations, perhaps on the staff of a hospital or school district, who are already conversant with fitness concerns. These persons may also have been trained in their own employment setting to respond to similar situations.
5. Persons who have clinical training, such as psychotherapists, counselors, or CPE supervisors.
6. Conference staff persons, if two persons are available. It is recommended that if one Conference staff person is available, that person provide staff support and coordinate the efforts of the Committee on the Ministry. If an additional person is available, that person can serve the response team as a resource to the local church or other calling body. To avoid real or perceived bias, Conference staff persons should not engage in information gathering or pastoral support regarding the person raising the question of fitness, the authorized minister under review, or their families.

Additional persons may be trained with the response team and serve as consultants. For example, the Conference attorney and the Conference insurance representative may provide useful perspectives to the response team or the Committee on the Ministry, and it would be helpful to have them working from the same basis of understanding as the response team. These consultants should not conduct the actual interviews or provide direct professional services to any of the principal parties.

Training

It is essential that bodies working together during the Fitness Review have similar training. Resources are available from the Parish Life and Leadership Ministry Team to help with this. All members of response teams, Conference and Association staff, and others such as legal counsel who may assist the Committee on the Ministry during a Fitness Review, need to engage in intentional training regarding their role and responsibilities. It is important that members of the Committee on the Ministry have exposure to the training as well. This increases confidence and enables the committee to rely upon the efforts of response team members.

Fitness Review Considerations

All response team members, Conference and Association staff, and Committees on the Ministry need to hold similar understandings about a Fitness Review.

Serious Treatment of Concerns Raised About Fitness For Ministry

All questions raised concerning a person's fitness for ministry are to be taken seriously and are not to be dismissed without careful review and response by the Association Committee on the Ministry or other body designated by the Association. This includes questions of ethical violations as well as other conduct that may be unbecoming an authorized minister of the United Church of Christ.

As soon as information surfaces questioning a person's fitness for ministry, prompt response is essential. Neither the chair of the Committee on the Ministry, nor a Conference staff person, nor any other individual should ever act alone to determine whether a question of fitness is serious enough to warrant thorough examination through a Fitness Review. All questions about fitness are to be taken seriously and are not to be dismissed without careful review and a response by the Committee on the Ministry. Provision in the *Manual on Ministry* allows an Association Committee on the Ministry to pursue a concern it has regarding an authorized minister's fitness for ministry, even in the absence of a specific person raising the question of fitness. The committee may determine that a Fitness Review is called for based on information received from a Conference or Association staff person that raises a question about a person's fitness for ministry, or the committee may receive the information through other means, such as media reports of criminal or civil suits in process. The Committee on the Ministry must do all it can to ensure that the persons it authorizes are fit for ministry and do not pose a harm to others.

Adoption of Policy

Most Associations within the United Church of Christ have adopted *Manual on Ministry* and use its procedures to guide the work of their Committees on the Ministry. Whatever procedures are used, Associations must formally adopt the process to be used for Fitness Reviews in order to enable their Committees on the Ministry to conduct their oversight of ministerial authorization with consistency and integrity.

In addition to *Manual on Ministry*, some Associations adopt additional policy statements that specifically address particular areas of concern, such as sexual misconduct by persons authorized for ministry. Such policies should, minimally, define the issue, articulate the Association's stance, and name the body or bodies designated to act on behalf of the Association when implementing the policy.

Some Associations or Conferences formally adopt very specific procedures and policies. On the one hand, a high degree of specificity can be helpful in charting a course of action. On the other hand, procedures that are too specific may make it impossible to

follow the adopted procedure in every case, and failure to follow adopted procedures can result in litigation.

In an attempt to walk this fine line, some Associations and Conferences have adopted policy statements such as:

The Conference holds sexual misconduct to be a violation of pastoral ethics. When a concern about a possible incidence of sexual misconduct by an ordained, commissioned or licensed minister comes to the attention of a representative of the Association that holds the person's authorization, the Committee on the Ministry will follow up on the concern or question of fitness, following the procedures outlined in *Manual on Ministry* and other supplemental documents and resources provided by the United Church of Christ.

The process adopted by an Association must be followed carefully, step by step, with fairness of treatment for all involved.

Both the person raising the concern and the person whose fitness is being reviewed are entitled to be informed of the procedures that will be used and have comparable access to information pertinent to the review. Both should be informed whom to contact with questions about the process.

Presumption of Innocence

The secular system of jurisprudence embodies a concern that persons be presumed innocent until it is determined to the contrary. While most ecclesiastical settings affirm these values, it is important to extend the "presumption of innocence" to both the person raising the fitness concern and also the person whose fitness is being questioned. Just as one should not automatically assume a pastor to be guilty of misconduct until that has been determined to be the case, neither should the person raising the concern be assumed guilty of falsehood until that is shown to be the case. Persons involved in the Fitness Review should withhold assessment about what is true, until such is determined through a careful, deliberative process.

With sensitivity to the painful nature of raising a fitness concern, every effort must be made to avoid statements or actions that impugn the integrity of either the person raising a fitness concern or the authorized minister under review. Raising questions regarding fitness produces considerable stress on both of these persons and their families. It is essential to assure both parties that the information they share will be treated seriously, and that they will be treated with respect throughout the process.

Education Regarding Ministerial Ethics

Education about ministerial ethics should begin in seminary and continue throughout a ministerial career. Conferences and Associations are encouraged to sponsor continuing education events that address areas such as maintaining appropriate personal/professional boundaries, sexual ethics, use and abuse of power, and managing stress. Periodic Support Conferences may be used for this purpose.

All authorized ministers and Conference staff persons should be sensitized to risk factors that make individuals vulnerable to violating ministerial ethics. Persons should be encouraged to seek support from Conference staff at the first indication of a potentially difficult situation. Often, early intervention or counsel can help to avert a more serious situation.

Conferences and Associations are also encouraged to offer workshops at annual meetings to help laypersons understand ethical issues, have exposure to the Association/Conference policy, and reflect on ways their congregations can be clearer about developing healthy expectations and setting clear boundaries that encourage safe environments.

Clarification of Behavioral Expectations

It is important that the Associations make clear to all ordained, licensed, and commissioned ministers the ethical and behavioral expectations held by the Association and Conference. The student-in-care process, privilege-of-call process, Periodic Support Conferences, and times of transfer of standing are key occasions for communication of these expectations.

Associations have addressed behavioral expectations in various ways, including:

1. Using the Periodic Support Conference to review ethical issues facing those in ministry. Reflection on these issues in peer group settings can be an occasion for considerable learning.
2. Reviewing with all persons seeking those authorizations the ministerial codes for ordained, commissioned, and licensed ministers and a code for the local church in relation to its pastor found in *Manual on Ministry*. Associations need to carefully review each expectation to clarify understandings and note areas of potential growth.
3. Requiring participation in training opportunities as part of the in-care or privilege-of-call processes, or requiring completion of a supervised reading program related to ethical issues in ministry. The Committee on the Ministry formulates questions or poses case situations that give persons an opportunity to demonstrate their ethical perspectives and clarify Association and Conference standards.

Information Gathering for a Fitness Review

Information gathering provides the means whereby a Committee on the Ministry has adequate reliable information to make an informed decision. In most cases, information must be gathered from the person or persons raising the fitness concern and also from the person about whom a concern has been raised. In addition, the same persons who gather information from these parties may also participate in meetings with the leaders of the local church or ministry setting. This section contains suggested processes and procedures to guide these meetings and interviews.

Initial Meeting with the Person(s) Raising the Fitness Concern

As soon as possible, arrangements should be made for two members of the response team to meet at some length with the person raising the concern about ministerial fitness. Due to the sensitive and emotional nature of such concerns and the struggle persons may experience in describing these situations, it would be helpful to have one person of the same gender and one person with the same ecclesiastical status as the person being interviewed. Because the same team will also interview the pastor under review, the team will need to have a balance of men and women, laypersons and authorized ministers.

For the meeting with the interviewing team, the person raising the fitness concern may be encouraged to bring an advocate or a support person to the meeting. Ideally, this support person is a trained member of the response team who has familiarity with the Fitness Review process and is able to offer support throughout the review.

Prior to the meeting, if possible, the response team should provide the person raising the question regarding fitness with a written copy or summary of the Association's adopted process related to a Fitness Review. This step may help the person feel safe and more comfortable during the meeting.

The initial meeting has several purposes, including:

1. Providing the person an opportunity to tell her or his story and to be taken seriously by the church.
2. Informing the person, if the situation allegedly involves physical or sexual abuse of a minor and/or adult afforded statutory protection, that secular authorities will be notified. Typically, secular authorities conduct their own investigation and follow their own procedures. Activation of civil or criminal procedures need not impede or accelerate the ecclesiastical review process.
3. Providing the person with facts about how information is formally presented to the church, the procedure for review of authorized ministers, and the authority of the church in ministerial authorization of the person. It would also be helpful to discuss the distinctions between the authorizing body and the calling body, and also between ecclesiastical and legal proceedings.
4. Determining if the person is aware of others who may have additional and relevant information regarding the ordained, commissioned, or licensed minister in question,

and explore with him or her avenues for encouraging any others to come forward and provide such information. When multiple persons have experienced harm, Associations are encouraged to provide an opportunity for voluntary sharing among those affected to gain healing insight and mutual support.

5. Determining if the person is concerned about being in any danger if her or his identity is revealed to the ordained, commissioned, or licensed minister at the time that person is informed of the question of fitness being raised. The response team needs to explore possible ways to address the person's fear, without minimizing it. Members of the team can offer to direct the authorized minister under review to not contact the person raising the question regarding fitness or divulge the person's identity to anyone; the response team can also state that refusal of the authorized minister to follow these directives could itself result in disciplinary action. It is recommended that the response team consider using the non-contact and non-disclosure forms offered elsewhere in this resource.
6. Clarifying how, when, and to whom the person's identity will be revealed throughout the process.
7. Determining the extent to which the person is willing to participate in the review. The response team may ask the person to provide her or his own written statement in addition to confirming her or his willingness to review and sign a summary of this meeting with members of the response team. Both of these written documents are very useful to the Committee on the Ministry as it determines the appropriate course of action.

Immediately following the meeting, those response team members conducting the interview should prepare a written summary of the meeting. The summary should not express the personal feelings of the interviewers or speculations or conclusions but rather describe the meeting in factual terms. This includes notation of the date and meeting participants, and summaries of what was said and observed during the meeting. The person making the statement should have an opportunity to review and comment, in writing, on this summary of the meeting. This summary and the person's comment on the summary becomes part of the information the response team shares with the Committee on the Ministry and places in the Committee's records.

Where no other written information has been submitted, this summary report may serve as the formal written document that identifies the question of fitness and describes the nature of the fitness concern from the perspective of the person raising the question.

Initial Meeting with the Minister Whose Fitness Is Questioned

As soon as possible, arrangements should be made for two members of the response team to meet at some length with the ordained, commissioned, or licensed minister about whom questions of fitness are raised. The meeting should take place at a Conference or Association office or other location in which confidentiality can be assured. It is strongly advised to have the same persons who met with the person raising the fitness question meet with the authorized minister under review. Due to the sensitive and emotional nature of a fitness review, it is helpful to have one person of the same gender and one person with the same ecclesiastical status as the person being interviewed. Because the same team also interviews the person raising the fitness concern, the team will need to have a balance of men and women, laypersons and authorized ministers.

For the meeting with the interviewing team, the person under review may be accompanied by a support person of her or his own choosing. However, experience has shown that it is also helpful for the Committee on the Ministry to offer to provide a support person to fill this role. Ideally, this support person is a trained member of the response team who has familiarity with the Fitness Review process and is able to offer support throughout the review.

The initial meeting has several purposes, including:

1. Notifying the person that a question regarding his or her ministerial fitness has been raised and is being taken seriously by the church.
2. Informing the person, if the situation allegedly involves physical or sexual abuse of a minor and/or adult afforded statutory protection, that secular authorities will be notified. Typically, secular authorities conduct their own investigation and follow their own procedures. Activation of civil or criminal procedures need not impede or accelerate the ecclesiastical review process.
3. Providing the authorized minister an opportunity to tell her or his own story about the concerns being raised. It is often advisable to invite the authorized minister to prepare a written description or account of the relationship with the person raising the question, including all information the person wishes to provide. Such a written response is very useful to the Committee on the Ministry as it determines the appropriate course of action.
4. Providing the authorized minister with facts about how information is formally presented to the church, the procedure for a fitness review of authorized ministers, and the authority of the church in ministerial authorization of the person. It would also be helpful to discuss the distinctions between the authorizing body and calling body, and also between ecclesiastical and legal proceedings.
5. Clarifying how, when, and to whom the authorized minister's identity will be revealed throughout the process.
6. Informing the authorized minister when and how information about the Fitness Review will be shared with the person's calling body.

7. Directing the authorized minister under review not to contact the persons raising the fitness concern or divulging their identity to anyone. The response team can also state that refusal of the person under review to follow these directives could itself result in disciplinary action. It is recommended that the response team consider using the non-contact and non-disclosure forms offered in this resource.

Immediately following the meeting, those response team members conducting the interview should prepare a written summary of the meeting. The summary should not express the personal feelings of the interviewers or speculations or conclusions but rather describe the meeting in factual terms. This includes notation of the date and meeting participants, and summaries of what was said and observed during the meeting. The person under review should have an opportunity to review and comment, in writing, on this summary of the meeting. This summary, including the authorized minister's comments on the summary, becomes part of the information the response team shares with the Committee on the Ministry and places in the Committee on the Ministry's records.

Initial Meeting with the Calling Body

Typically, the Conference or Association has a prior relationship with the local church or other calling body and has likely participated in the installation of the authorized minister in question. The Association Committee on the Ministry is responsible for contacting the local church or other calling body and telling leaders that a question of fitness has been raised regarding the authorized minister. This initial contact also conveys the nature of the question, states that a Fitness Review is underway, and describes the process that will be followed. The Committee also requests an immediate meeting of church leaders.

While the authorized minister whose fitness is being reviewed should know that this meeting is taking place, neither the authorized minister nor any family members should have any role in setting up, conducting, or attending the meeting.

The initial meeting has several purposes, including:

1. Describing the nature of the question raised regarding ministerial fitness.
2. Clarifying that any question is not to be accepted as true or false until found to be so through the Committee on the Ministry's thorough review.
3. Informing the leaders, if the situation allegedly involves physical or sexual abuse of a minor and/or adult afforded statutory protection, of the process for informing secular authorities. Typically, secular authorities conduct their own investigation and follow their own procedures. Activation of civil or criminal procedures need not impede or accelerate the ecclesiastical review process.
4. Asking the leaders if they have additional information to share regarding the question of fitness or perspectives regarding the person under review. This information, which may be offered in writing, is very useful to the Committee on the Ministry as it determines the appropriate course of action.
5. Assisting the local church or other calling body in exercising its role and responsibility as employer. The advisable course for continuation of pastoral responsibilities while the fitness concern is being investigated must be determined. As calling body, the local church or other covenantal partner makes the determination about continued employment.

The local church or other calling body is responsible for exercising supervisory responsibility as well. This might include monitoring certain activities or imposing restrictions on certain ministerial functions in order to ensure the safety of members and to protect the authorized minister during a Fitness Review.

There may be tension between the need to remove the person from the ministry setting while the question is being investigated and the impact of such an action on the predetermination of guilt or innocence. The protection of children, parishioners, or counselees from harm must be ensured while the Fitness Review is being conducted. The local church or other calling body incurs legal risks if such protection is not provided.

6. Expressing pastoral concern for the local church or other calling body and determining what additional pastoral needs there may be within the local church.
7. Determining what assistance may be offered to the local church or other calling body in processing the information and its response to it. The leadership of the local church or other calling body is responsible for fostering and nurturing an environment that is equally open and receptive to all who participate in and/or seek the ministry of the church, including those who may be raising questions about a person's fitness and others who may be impacted by the Fitness Review

Immediately following the visit, the representatives of the Association or Conference and other response team members should prepare a written summary of the meeting. The summary should not express the personal feelings of the interviewers or speculations or conclusions but rather describe the meeting in factual terms. This includes notation of the date and meeting participants, and summaries of what was said and observed during the meeting. One of the representatives of the local church who was present at the meeting, such as the church president or moderator, is asked to sign the written summary, and comment on it, if necessary. This summary and the leader's comment, if any, on the summary becomes part of the information the response team shares with the Committee on the Ministry and places in the Committee on the Ministry's records.

In the case of authorized ministers serving in settings other than a local church, additional considerations regarding the specific calling body may need to be addressed. The response team will also need to keep leaders from the local church of membership informed.

Interview Structure and Technique

The following four steps may be used or adapted by response teams interviewing both the person raising the fitness concern and the person whose fitness is in question. Ideally, the same response team members interview both parties.

Step 1: Build Rapport

This interview is a conversation with a purpose.

The relationship between the response team members and the person being interviewed is not adversarial. This is not an interrogation in which the interviewers must evaluate the reliability of the story. Rather, the goal of the response team members is to give the person being interviewed an opportunity to tell her or his story and have it heard and acknowledged by the church. Those being interviewed are often experiencing life as chaotic and out of control. In order to facilitate the telling of their story, it is imperative for the response team members to build rapport with them and establish an open and inviting environment. By providing structure to their chaos, by remaining open to hearing the truth as they see it, and by providing a means for presenting the persons' information to the Committee on the Ministry, the interviewers establish a relationship in which helpful information emerges.

This conversation might begin with introductions, a statement of the purpose of the conversation, and some discussion of the place of the conversation within the whole process of the Fitness Review. It is also important to clarify the scope and limitations of the response team members within this process.

Response teams are encouraged to share a written statement of the process adopted by the Association for Fitness Reviews with the person being interviewed. The person can refer to this statement of process, including whom to contact with questions, after the response team is gone.

Step 2: Hear the Story

Next, the interviewers should provide an opportunity for the person to tell his or her story in a free-form way, using his or her own words.

It is helpful to encourage the person to share whatever she or he feels is important in whatever order she or he wants. The first telling of the story may be somewhat disjointed and random.

If the person does not know where to begin, the response team may suggest that he or she begin by describing his or her relationship with the other principal party involved. For example, one of the interviewers might say, "Tell us how you first came to know _____." or "Was there a time when your relationship with _____ changed? Can you tell us about that?"

It will be easier to move from less difficult parts of the story to the more difficult parts. At first, the person may find it easier to describe the relationship than particular behaviors.

The interviewers may gently guide the conversation to the facts of the person's experience. It is important to acknowledge feelings and emotions. Acknowledging the person's feelings will continue to build rapport, enhancing her or his ability to share more of her or his story. Failure to acknowledge feelings may undermine any rapport that has been established and severely limit the person's confidence that the interviewers are genuinely interested in hearing the story.

Step 3: Organize the Story

Once the story has been told in the person's own words, it is the interviewers' task to help organize the story and give it some structure.

An interviewer may guide the conversation along some organizing principle such as a chronology of events. Or the response team may seek to organize the interview around the particular fitness concerns that have been raised. For example, if the concern involves questions regarding pastoral sexual misconduct, the Committee on the Ministry will want to know two things: first, was there a ministerial relationship and second, was there sexual behavior. This may provide an organizing framework for the story.

Response team members always need to use open-ended questions designed to elicit further detail from the person being interviewed. Questions that can be answered with a simple "yes" or "no" are conversation stoppers and may be construed as leading.

Most often, interviewers need to seek clarification and detail and should help the person being interviewed describe behaviors with as much specificity as possible. The interviewer might offer a comment such as "You used the phrase 'an obscene gesture.' Can you tell us more about that gesture that you felt was obscene?" or "What about that hug made you uncomfortable?"

Remember to focus the conversation on the facts and events related to this person's experience. As important as emotions and feelings are, the Committee on the Ministry's decision must be made on the facts of the matter.

Step 4: Prepare Reports

After the story has been told, organized, and clarified, the response team will need to prepare a report of the interview for use by the Committee on the Ministry in its deliberations.

As far as possible, the report should convey an accurate and complete record of the interview with a focus on the story of the person being interviewed. Observations of demeanor, gestures, or behaviors of the person being interviewed may be included in addition to the person's description of his or her experience.

The report should confine itself to the facts without interpretation by the interviewers. For example, it might be noted that the person "broke into tears" without characterizing the tears as "hysteria" or "remorse."

The report can detail the events and experiences without using names. Instead the report may describe the relationship to the person being interviewed. An addendum to the report identifies individuals by name. For example, when the person raising the question of fitness uses the pastor's name, the report can simply say "the pastor" and the addendum identifies "the pastor" as "Rev J Q Doe."

Only those with a need to know receive the identifying information. Others will need to know only the substance of the report, without persons' identities.

After the response team members have compiled the interview summary, they need to give the person interviewed an opportunity to review and comment upon the report, in writing if desired. After adding any commentary, the person interviewed needs to sign the report, which will be given to the Committee on the Ministry for its deliberations.

Non-Contact, Non-Disclosure Agreements

During a Fitness Review, it is very helpful to ensure that the person raising the fitness concern and the authorized minister under review do not have contact with one another or disclose confidential information outside the oversight proceeding. Many Associations have asked both principal parties to sign agreements noting those terms, as illustrated in the pages that follow.

Questioning Person's Understanding Regarding Non-Communication

SAMPLE UNDERSTANDING OF NON-COMMUNICATION

You have raised a question regarding a person's ministerial fitness. We wish to honor the confidentiality and integrity of the Fitness Review process until its conclusion.

We require the ordained, commissioned, or licensed minister whose fitness is being questioned to agree to an understanding of non-communication and non-disclosure, and we ask that you agree to follow a similar non-communication agreement:

I agree to an "*Understanding of Non-Communication*" to be honored for the duration of this review. I agree that I will not contact the person about whom I am raising a question regarding fitness for ministry or this person's family during the review process.

I have read and understand the above.

(Signature of Person Raising the Fitness Question)

(Date)

(Signature of Response Team Member)

(Date)

This form will be included with documentation compiled by the response team and will be turned over to the Committee on the Ministry.

SAMPLE UNDERSTANDING OF NON-DISCLOSURE AND NON-COMMUNICATION

Questions have been raised regarding your fitness for ministry. We wish to honor the confidentiality and integrity of the Fitness Review process until its conclusion. This agreement must be honored for the duration of the review.

I agree to an "*Understanding of Non-Disclosure and Non-Communication*" to be honored for the duration of this review. I agree that I will not contact the person raising a question about my fitness for ministry or this person's family during the review process. I also agree not to disclose the person's identity to any persons who are not immediately involved in the Fitness Review.

I have read and understand the above.

I further understand that failure to abide by this agreement may result in disciplinary action by the Committee on the Ministry, which could include termination of my ecclesiastical authorization.

(Signature of the Authorized Minister's Signature)

(Date)

(Signature of Response Team Member)

(Date)

This form will be included with documentation compiled by the response team and will be turned over to the Committee on the Ministry.

Support during a Fitness Review¹

Whenever a Fitness Review is underway, it is a painful and difficult time for all involved. The church needs to reach out with caring and particular support to these persons involved:

1. The person raising the fitness concern and his or her family.
2. The authorized minister whose fitness is under review and her or his family.
3. leaders and other staff members of the local church, or other calling body.

It is recommended that Committees on the Ministry identify a number of persons who may fulfill this support role, so that no single individual is asked to provide support to more than one party. The pool of trained support persons should include:

1. Both men and women, so that their support will be sensitive to gender-specific issues, perspectives and experiences. In many cases, the support person may be the same gender as the person being supported.
2. Both laypersons and authorized ministers, so that their support will be sensitive to the dynamics and perspectives of authorization. In many cases, the support person may hold the same or similar authorization as the person being supported.
3. Persons who have special gifts and skills that enable them to provide meaningful support during a Fitness Review.
4. Persons who understand completely the process that will be followed during the review and related concerns including:
 - Confidentiality.
 - Standards for fitness for ministry including the expectations of the church and ethical norms.
 - The procedures for a Fitness Review as described in *Manual on Ministry*.
 - UCC polity issues involved.
 - Legal issues.
 - Financial resources available.
5. Persons who understand completely their role in supporting the person raising the question of fitness, the authorized minister under review, or the local church or other calling body. Support persons should also understand the roles of other persons involved in the review, including Conference staff, members of the Committee on the Ministry, other response team members, and advisors to the response team or Committee on the Ministry including psychiatrists and lawyers.
6. Persons who are aware of the social and psychological dynamics of those they will support.

¹This material has been adapted from Procedures for *Dealing with Pastoral Sexual Misconduct*, a resource prepared by the New Hampshire Conference.

Role of the Support Person to the Person Raising the Fitness Concern

As soon as possible in the process, members of the response team with responsibility for support need to contact the person raising the fitness concern. The support person has a critical role—she or he is the face and presence of the church, the face and hands of God who does not betray. She or he is a concrete sign that the church and God are with the person raising the fitness concern.

GUIDELINES

The support person needs to:

1. Understand and maintain the separation of the support role from the roles of others. Specifically, the support person will not be involved in information-gathering, decision-making, or administration of the Fitness Review. Nor will there be any support relationship with the person whose fitness is under review.
2. Help the person raising the fitness concern to understand that she or he is not alone, that she or he is being taken seriously, and that it is safe to speak his or her truth.
3. Honor confidentiality at all times except in those instances required by law. Specifically, it is not the role of the support person to gather or pass on information shared by the person raising the fitness concern with the Committee on the Ministry.
4. Recognize that the person raising the fitness concern may be feeling a painful combination of fear, guilt, shame, anger, and self-blame; that she or he may be conflicted in dealing with these emotions, and with the desire to protect and defend others from the abuse she or he may have suffered.
5. Recognize that the person raising the fitness concern may be suffering a crisis of faith, and that he or she may be disillusioned and angry with God and the church.
6. Be aware that the family of the person raising the fitness concern may be reeling in the wake of the questions of fitness or conversely, may not have been informed. Arrange pastoral care for a spouse or family. Often, the spouse has no one to talk with and needs affirmation that church is also present for her or him during this time
7. Understand that he or she is a companion, not a counselor or investigator. He or she should be a non-anxious presence who helps the person raising the fitness concern sort through the practical issues surrounding the process.
8. Be careful not to provide direct therapy or legal counsel. The support person may make appropriate referrals to persons skilled and qualified to provide such services.
9. Be aware of indications that the person raising the fitness concern may be suicidal, depressed, or show other signs of needing immediate counseling. If necessary, the support person may initiate appropriate interventions, including notification to appropriate authorities and/or emergency referral to a qualified therapist and/or hospital.

10. Understand that the person raising the question of fitness may not welcome the involvement of the support person. Respect the person's resistance, as would a therapist. Initiate, but do not force. Phone, write, and invite.
11. Seek appropriate consultation and support in fulfilling the responsibilities of this support role.

PROCEDURE

The support person will initiate contact with the person raising the fitness concern and arrange a meeting to discuss his or her role, including the limits and extent of support offered during the Fitness Review.

In addition, the support person will:

1. Communicate that she or he is not a counselor, therapist, or investigator, but may be a general resource and advocate throughout the process.
2. Let the person raising the fitness concern know about psychotherapeutic resources and financial resources that may be available with regard to the therapeutic process.
3. Clarify the issues of confidentiality and privileged communication. The support person will keep confidential everything that the person raising the fitness concern shares except that which the support person is required by law to report to appropriate secular authorities. The ecclesiastical system has no requirements that the support person report to the Committee on the Ministry or any of its representatives. If information is shared with the support person that is important to the review, the support person may encourage the person raising the fitness concern to share it with the committee.
4. Plan to meet with the person raising the question of fitness on a regular basis, as necessary. Help the person even if he or she does not desire regular meetings by attempting to obtain his or her cooperation for some kind of meaningful contact (phone, mail, or occasional meetings).

If the person raising the fitness concern refuses all contact with the support person, the support person files a summary report documenting the response and forwards it immediately to the appropriate representative of the Committee on the Ministry. If, at any time, the person raising the fitness concern refuses the support offered, the support person documents the efforts to provide support and forwards the report to the appropriate committee representative to document that support was offered and subsequently refused by the person.

If requested by the person raising the fitness concern, the support person may be asked to accompany the person and attend any or all meetings with the Committee on the Ministry related to the Fitness Review. This includes interviews with those gathering information on behalf of the committee as well as formal meetings with the committee itself.

The support person continues in her or his supportive and advocacy roles throughout the review process. No matter the outcome, the support person expresses concern for the well-being of the person raising the fitness issue.

At the official closure of the process, the support person may encourage the person raising the fitness concern to obtain additional support for continued healing.

Role of the Support Person to the Person Whose Fitness is Under Review

The support person to the authorized minister whose fitness is under review has a critical role—he or she is the face and presence of the church, the face and hands of God who does not betray. He or she is a concrete sign that the church and God are with the authorized minister during this difficult time.

GUIDELINES

The support person needs to:

1. Understand and maintain the separation of the support role from the roles of others. Specifically, the support person will not be involved in information-gathering, decision-making, or administration of the Fitness Review. Nor will there be any support relationship with the person raising the question of fitness.
2. Help the authorized minister under review to understand that he or she is not alone, that he or she is being offered pastoral care and support.
3. Honor confidentiality at all times except in those instances required by law. Specifically, it is not the role of the support person to gather or pass on information shared by the person raising the fitness concern with the Committee on the Ministry. If information is shared with the support person that is important to the review, the support person may encourage the person whose fitness is under review to share it with the committee.
4. Recognize that the authorized minister whose fitness is under review is a person in crisis. Profession, marriage, family, reputation, and livelihood may all be at stake. The authorized minister may be feeling scared, hurt, and possibly guilty. The person is also likely to feel isolated and may become more so before the process is complete. The role of the support person is to serve as a link in the network to be sure that this person is not abandoned.
5. Be a spiritual resource, helping the person stay connected or re-connected to his or her faith.
6. Arrange pastoral care for members of the person's family. Often, the spouse or partner has no one to talk with and needs affirmation that she or he has not been abandoned by the church.
7. Be an advocate, to the extent possible, for the person and help him or her through the review proceedings. The support person serves as a guide, confronter, advisor, or encourager as needed, and helps the authorized minister think through the options and decisions that need to be made.
8. Be careful not to provide direct therapy or legal counsel. The support person may make appropriate referrals to persons skilled and qualified to provide such services.
9. Be aware of indications that the person whose fitness is under review may be suicidal, depressed, or show other signs of needing immediate counseling. If

necessary, the support person may initiate appropriate interventions, including notification to appropriate authorities and/or emergency referral to a qualified therapist and/or hospital.

10. Understand that the person whose fitness is under review may not welcome the involvement of the support person. Respect the person's resistance, as would a therapist. Initiate, but do not force. Phone, write, and invite.
11. Seek appropriate consultation and support in fulfilling the responsibilities of this support role.

PROCEDURE

The support person will initiate contact with the authorized minister under review and arrange a meeting to discuss his or her role, including the limits and extent of support offered during the Fitness Review.

In addition, the support person will:

1. Explain the details of the Fitness Review process to the authorized minister.
2. Communicate that she or he is not a counselor, therapist, or investigator, but may be a general resource and advocate throughout the process.
3. Clarify the issues of confidentiality and privileged communication. The support person will keep confidential everything that the authorized minister shares except that which the support person is required by law to report to appropriate secular authorities. The ecclesiastical system has no requirements that the support person report to the Committee on the Ministry. If information is shared with the support person that is important to the review, the support person may encourage the authorized minister to share it with the committee. The person whose fitness is under review needs to know that he or she can trust the support person. Like a pastor to a parishioner, the support person is there in a supportive and caring role as he or she goes through a very difficult process, regardless of outcome of the Fitness Review.
4. Plan to meet with the authorized minister on a regular basis, as necessary. Help the authorized minister even if he or she does not desire regular meetings by attempting to obtain her or his cooperation for some kind of meaningful contact (phone, mail, or occasional meetings).

If the authorized minister under review refuses all contact with the support person, the support person files a summary report documenting the response and forwards it immediately to the appropriate representative of the Committee on the Ministry. If, at any time, the authorized minister refuses the support offered, the support person documents the efforts to provide support and forwards the report to the appropriate committee representative to document that support was offered and subsequently refused by the person.

If requested by the authorized minister, the support person may be asked to accompany the person and attend any or all meetings with the Committee on the Ministry related to

the Fitness Review. This includes interviews with those gathering information on behalf of the committee as well as formal meetings with the committee itself.

The support person continues in her or his supportive and advocacy roles throughout the review process. No matter the outcome, the support person expresses concern for the well-being of the person whose fitness is questioned.

At the official closure of the process, the support person may encourage the person whose fitness was under review to obtain additional support.

Role of the Support Person for the Local Church or Other Calling Body

The local church or other calling body may experience great difficulty when a Fitness Review occurs. How things are handled in those first weeks after fitness concerns have been raised and been brought to the attention of leaders is very important, because it builds the foundation on which healing can eventually occur.

The support person for the local church or other calling body plays a key role during a Fitness Review. She or he is the face and presence of the wider church, the face and hands of God who does not betray. She or he is a concrete sign that the church and God continue to provide support and guidance to the local church during this difficult time.

When a Fitness Review is underway, Conference staff often assume the administrative or coordinating role of the entire process or provide staff support to the Committee on the Ministry. Therefore, it is usually necessary to have an additional support person appointed to provide support and counsel for the local church or other calling body. This avoids overload and conflict of roles. In all cases, the support person for the local church works in close partnership with the Conference staff related to the Fitness Review.

GUIDELINES

The support person needs to:

1. Understand and maintain the separation of the support role from the roles of others. Specifically, the support person will not be involved in information-gathering, decision-making, or administration of the Fitness Review. Nor will there be any support relationship with the person raising the fitness concern or the authorized minister under review.
2. Be experienced in providing support and understanding the Fitness Review process. Especially when concerns are raised about a pastor's fitness for ministry, the congregation needs a support person who is well informed and experienced to provide information and support regarding the process, decisions, or other guidance requested. The support person provides a non-anxious, pastoral presence during those first difficult weeks.
3. Help leaders of the church or other calling body think through the tasks and responsibilities they have during the review. The leaders are responsible for fostering and nurturing an environment that is equally open and receptive to all who participate in and/or seek the ministry of the church, including those raising questions about a person's fitness and others who may be impacted by the Fitness Review.
4. Help leaders understand the importance of allowing the Committee on the Ministry to engage in its Fitness Review process and make decisions regarding the authorized minister under review. It is very important to counsel the church leaders to withhold judgment, and to help others do likewise, during the review.

5. Encourage the leaders of the church or other calling body to decide who will be the spokesperson to the media and wider community if the situation becomes public. Usually media requests are referred to a person designated by the Committee on the Ministry, which is often the chairperson of the Committee.
6. Recognize that the local church or other calling body may be in a difficult and vulnerable position. The support person needs to be sensitive to feelings and expressions of betrayal, hurt, and anger that may be directed toward either the person whose fitness is under review or the person raising the fitness concern. There may also be anger directed toward the Association or Conference for allowing the Fitness Review to proceed and disrupt the life of the congregation or calling body. The support person helps the church or other calling body find appropriate ways to express these feelings in order to work through the issues that arise.
7. Be as familiar as possible with the local situation and the dynamics that frequently occur in the local church or other calling body when an authorized minister's fitness is under review.
8. Provide assistance in helping the leaders exercise their role and responsibilities as employer, particularly with regard to questions about possible leave of absence, supervision, monitoring and/or restricting an authorized minister's role while the review is underway.
9. Be sure that the local church or other calling body makes a preliminary contact with its insurance company. Be aware if and when the local church or other calling body may need to obtain legal counsel.
10. The support person's role is primarily advisory and pastoral. If facilitating the healing process requires more "hands-on" time or expertise than the support person is able to provide, the support person, in cooperation with Conference staff, may be able to refer the church leaders or leaders of other calling bodies to other consultants and experts who can provide assistance.

PROCEDURES

Typically representatives from the Committee on the Ministry first contact the leaders of the local church or other calling body, and request an immediate meeting. The support person attends that meeting and explains her or his advisory and pastoral role as providing information and offering support. At this meeting, the support person will:

1. Be sure the details of the Fitness Review process are explained to the local church or other calling body, with notation that the process followed is one adopted by the Association. For calling bodies other than the local church, it may also be helpful to provide information about the polity of the United Church of Christ.
2. Be sure the leaders get accurate information and help the local church or other calling body determine how to provide information to the members.
3. Help develop a process that allows people to ask questions, get answers, and begin to express feelings.

4. Encourage the local church or other calling body to share information with the Association Committee on the Ministry.
5. Plan to meet with the leaders on a regular basis, as necessary.

If requested by the leaders, the support person may be asked to accompany representatives of the local church or other calling body and attend any or all meetings with the Committee on the Ministry related to the Fitness Review. This includes interviews with those gathering information on behalf of the committee as well as formal meetings with the committee itself.

The support person continues in her or his supportive roles throughout the review process. No matter the outcome, the support person expresses concern for the well-being of the local church or other calling body.

Responding to Media Requests while a Fitness Review Is Underway

During a Fitness Review, Conference staff, Association staff, or leaders of local churches or other calling bodies may be contacted by the media for a statement. An appropriate response that upholds the integrity of the church and its ministry may include:

- Designating one individual as spokesperson to the media. Most often this person is the chairperson of the Committee on the Ministry or the Conference staff person providing staff support to the Committee. All media inquiries should be directed to this one person.
- Assuring those concerned that ministerial fitness is taken seriously, questions regarding fitness are reviewed promptly, and decisions are made to embody justice and caring for all involved.
- Assuring those concerned that the ordained, licensed, or commissioned minister whose fitness is questioned is treated fairly while the concern is being reviewed, and if the question regarding fitness proves to be unsubstantiated, deliberate work will be done to exonerate the authorized minister under review.
- Assuring the wider community that the church is committed to ministries of integrity and works to uphold such. If the question regarding fitness is determined to have merit, prompt action will be taken to limit or terminate the continued authorization for ministry as needed.
- Avoiding discussing details of the situation. It is important to maintain the confidentiality of the Fitness Review.
- Stating clearly that there is no role for the media in meetings of an Association or the Committee on the Ministry during a Fitness Review.
- Contacting the Proclamation, Identity, and Communications Ministry Team of the Office of General Ministries (A Covenanted Ministry of the United Church of Christ) for further information regarding responding to media requests.

Implications of Disciplinary Outcomes on Health and Pension Benefits

A Committee on the Ministry considering disciplinary actions following a Fitness Review—conditional affirmation of fitness with a prescribed program of growth, censure, suspension, or termination—needs information regarding the implications of these actions upon a person’s UCC pension benefits and UCC health benefits provisions.

When ministerial standing is terminated, persons retain their UCC pension accounts, which hold all contributions made on their behalf during their period of service in the church. Once the person is no longer employed within the United Church of Christ, he or she cannot make additional contributions into the pension account and the account may be administered as a layperson’s account.

The UCC Health Benefits Plan is correlated to a person’s place of employment rather than to ministerial authorization. Conceivably, someone could continue to work with an institution related to the United Church of Christ after their authorization for ministry has been removed. If so, they may remain eligible for participation in the health benefits program.

If, however, a person is no longer employed by an institution related to the United Church of Christ, she or he is not eligible for continued participation in the health benefits program. The one exception is a provision that allows a person who has been a participant in the health benefits program and is involuntarily terminated to continue to participate for a period of up to 18 months following completion of her or his employment. In most cases, the person pays the health benefits premium.

When an Association suspends ministerial authorization, implications for pension and health benefits can be clarified with the United Church of Christ Pension Boards. The person may be restricted to the 18-month limit on participating in the health benefits program following completion of employment.

For authorized ministers who are already retired, suspension or termination of ministerial standing has little effect on pension or health benefits, although the person will no longer be able to designate a portion of his or her pension benefits as a housing allowance. Ministers no longer authorized cannot claim a housing allowance without violating tax regulations.

With disciplinary actions of censure or conditional affirmation of fitness with a prescribed program of growth, the person retains ministerial authorization and all benefits.

Legal Questions Committees on the Ministry May Encounter

How do we make best use of attorneys in a Fitness Review?

If the Committee on the Ministry decides it is necessary to consult with an attorney, Associations and Conferences are encouraged to utilize the same attorney used by the Parish Life and Leadership Ministry Team or Local Church Ministries at the national setting of the church. Legal Counsel for the Conference may also join the Association of United Church of Christ Conference Attorneys, an organization that provides mutual support and networking around issues of common concern.

Many attorneys may seem suitable, but it is essential to use an attorney with specific expertise in ecclesiastical review processes and the polity of the United Church of Christ. Much of the necessary legal research has already been done, so cost savings also commend this course of action. Cost for services must be negotiated directly with the attorney and is the responsibility of the client. The recommended attorney's name and contact information is available from the Parish Life and Leadership Ministry Team.

Is an Association or its Committee on the Ministry liable if it removes ministerial authorization in a Fitness Review?

Some church bodies have been concerned that they may be liable if they act to remove a ministerial authorization. In fact, the church has greater liability if it knows of a possible violation and does not act to review the person's continued fitness for ministry.

Repeatedly, the courts have refused to intervene in a church's decision about who can or cannot practice ministry on its behalf. While it is not uncommon for legal action to be threatened when a person's ministerial authorization is removed, it is clearly the prerogative of the church to determine who it deems able to minister on its behalf.

In a 1990 Appeals Court Decision in Washington, D.C. (United Methodist Church vs. White), the appeals court ruled that the church could not be sued by a minister who had been dismissed. Below are several quotes from the decision:

- “[the constitutional guarantee of religious freedom] grants churches an immunity from civil discovery and trial under certain circumstances in order to avoid subjecting religious institutions to defending their religious beliefs and practices in a court of law.”
- “The United States Supreme Court has long held that, generally, civil courts are not a constitutionally permissible forum for review of ecclesiastical disputes (involving matters of discipline, faith, internal organization or ecclesiastical rule, custom or law.”
- “Any attempt by the civil courts to limit the church's choice of its religious representatives would constitute an impermissible burden on the church's first amendment rights . . . accordingly the courts have concluded that employment

disputes concerning the status of pastors are inherently ecclesiastical and cannot constitutionally be subject to review.”

It is important to be sure the attorney providing counsel to the Association or Conference is familiar with the legal precedents on these church and state issues. When threatened with a legal suit, it may also be advisable to have the attorney inform the authorized minister or the person’s attorney about existing legal precedent.

What liability may a local church, Association or Conference have when misconduct takes place by a person authorized for ministry in the United Church of Christ?

The following case from *Church Law and Tax Report* indicates how the law has been interpreted:

A Colorado case, *Destefano vs. Grabian*, 763 P.2d 275 (Colo. 1988), involved litigation against a Catholic priest and his diocese for alleged pastoral misconduct. The court’s conclusion was that:

... the diocese could be legally accountable for the priest’s actions if it was aware of previous occasions of similar misconduct involving the same priest and it failed to institute any means of supervising him. The court took pains to emphasize that denominations are not liable for the misconduct of clergy simply because of their relationship with each other. Rather, denominational liability for the misconduct of clergy arises only if 1) a minister is an employee or agent of the denomination and is acting within the scope of his or her employment at the time of the misconduct, or 2) the denomination knew, or should have known, of previous acts of misconduct by a minister; it failed to institute any procedure for supervising the minister; and the minister injured a person (in the same or in a different church) by means of the same type of misconduct ... If a denomination becomes aware of a particular minister’s misconduct (for example, adultery or child molestation) and it elects not to dismiss the minister, ... the denomination may be legally responsible for damages if the minister commits the same kind of misconduct to persons ... if the denomination has failed to institute any procedure for supervising the minister.²

While it is not uncommon for local churches, Associations, or Conferences to be threatened with legal suit if they proceed to dismiss, discipline, or move toward removal of a person’s ministerial standing, precedents clearly indicate that the courts have viewed authorization issues as ecclesiastical and have not intervened in these situations. They also indicate that the courts may intervene in employment issues if doing so does not require “unnecessary entanglement” in the faith, order, or polity of the church.

² *Church Law and Tax Report*, May/June 1989; Reprinted by permission, Christian Ministry Resources, Matthews, North Carolina.

What is very clear from the legal precedents, however, is that a church body may be liable if it does *not* act to either dismiss, discipline, or institute supervision of an authorized minister who has been engaged in misconduct related to sexual contact or harassment within the pastoral relationship.

Are there particular cases that are cited as demonstrating the protections the church has due to the First Amendment?

On numerous occasions the courts have refused to hear cases brought against church bodies. The first case of landmark status was *Watson vs. Jones*, which occurred after the Civil War and involved a dispute between a Presbyterian church in Georgia and the national Presbyterian Church. There had been a split within the Presbyterian Church that resulted in the formation of what was essentially a northern and a southern church.

The legal dispute in *Watson vs. Jones* centered on who had the right to church property. For the first time the Supreme Court of the United States undertook a review and analysis of the relationship between the courts and the church. The courts reviewed the polity of the various church bodies that existed in that day and determined that the courts would have no part in interpreting religious doctrine. To do so, they held, would be a violation of First Amendment rights.

In 1949, in *Gonzalez vs. Archbishop*, the Supreme Court of the United States ruled that it would not seek to overturn the decision of a duly-constituted church authority on ecclesiastical matters.

Again, in 1952, in a case involving the Russian Orthodox Church and New York State, the Supreme Court of the United States affirmed its unwillingness to become involved with personnel matters within the church.

Probably the clearest and most frequently cited case is the 1976 Supreme Court case of *Serbian Eastern Orthodox Church vs. Milivojevich*, which held, in the face of an apparently arbitrary and capricious process, that the courts cannot intervene in ecclesiastical matters, even in terms of the process.

These long standing precedents continue to be affirmed by various courts. For example, the Supreme Court of Iowa [*Pierce v. Iowa-Missouri Conference of Seventh Day Adventists*, 534 N.W. 2d 425 (Iowa 1995)] stated: “We agree with those courts that have determined that the First Amendment requires secular tribunals to refuse to interfere with a church’s relationship with its ministers. Accordingly, we decline to review any aspect of the executive committee’s decision to terminate [employment as a minister].”

It should be noted that anyone can file a suit, for whatever reason they choose. But the first line of defense if a suit is brought by the authorized minister whose fitness for ministry is under review is that the civil court does not have *jurisdiction* in the matter. The jurisdiction issue is settled before the case proceeds with evidence.

Does the Association pursue its own disciplinary procedures concurrently with civil/criminal proceedings or should it allow

civil/criminal proceedings to run their course before taking formal action?

The church must show that it is acting responsibly and utilizing its own criteria and standards. The church should not let the courts make the church's decisions. It is essential that the appropriate settings of the church act promptly, without regard to the court proceedings, in engaging in a thorough examination of any questions raised regarding ministerial fitness.

How can settings of the church be proactive in protecting themselves from possible litigation associated with misconduct by an ordained, commissioned, and licensed minister?

The largest body of suits being brought against the church falls into the areas of negligent hiring, negligent retention, negligent supervision, and negligent empowerment. It is essential that church bodies demonstrate having taken reasonable action to ensure that a person who is acting in their employ, or with their authorization or empowerment, or under their supervision, is not harmful to others.

In the case of negligent employment and empowerment, many calling bodies in both secular and church arenas now use background screening forms to check a person's past as protective measures. The "Background Disclosure" section of the UCC Ministerial Profile is an example of such a screening form currently in use.

If a church body has knowledge, or should have had knowledge, that a person is a risk to others, they have a legal responsibility to act to prevent harm.

Experts state that the church also lessens the likelihood of litigation by working toward justice for those harmed and assuring all concerned that authorized ministers who engage in unethical conduct harming persons in the past will be prevented, to the extent possible, from doing additional harm.

How are local churches able to shoulder the cost of litigation?

Local churches of the United Church of Christ are encouraged to obtain and maintain sufficient insurance coverage. With increased frequency, local churches are being sued for a variety of reasons.

The Insurance Board of the United Church of Christ offers liability insurance for local churches. They are able to help assess the adequacy of current coverage and recommend coverage appropriate to a given setting.

PASTORAL SEXUAL MISCONDUCT

Pastoral sexual misconduct is defined as a range of behaviors that includes verbal or physical sexual harassment, sexual advances, sexual contact, and/or other sexualized behavior between an ordained, licensed, or commissioned minister and his or her parishioners, clients, or those the authorized minister supervises or serves in a professional capacity. Such behavior crosses appropriate professional boundaries and is an abuse of the trust placed in and the responsibilities and privilege of the pastoral role. Such misconduct violates pastoral ethics.

In all instances, the ordained, licensed, or commissioned minister is responsible for maintaining professional boundaries, regardless of the behavior of other persons. Authorized ministers within the United Church of Christ are accountable to the Association for living out with integrity the vows they have taken. This includes the statement repeated in all three codes for authorized ministers in the United Church of Christ: “I will not use my position, power or authority to exploit any person.” The codes are detailed in the “Partners in Authorizing Ministry” section of *Manual on Ministry*.

Sexual Harassment

Sexual harassment³ is generally defined to include sexual advances, requests for sexual favors, and/or other verbal or physical conduct of a sexual nature when:

- Submission to such is made either explicitly or implicitly a term of an individual’s employment (in this case, paid or volunteer) or his or her continued status in an institution.
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individuals.
- Such conduct has the purpose or effect of interfering with work performance by creating an intimidating, hostile, or offensive work environment based on the declared judgment of the affected individual.
- Such conditions create an intimidating, hostile, or offensive environment for another individual regardless of the specific setting or circumstances or the relationship between the two individuals most directly involved.

Sexual Misconduct

Sexual misconduct includes any of the following:⁴

1. Sexual contact with a minor.
2. Sexual harassment.
3. Rape or sexual contact by force, threat, or intimidation.

³This definition is adapted from the policy of sexual misconduct by the Iowa Conference of the United Church of Christ. The definitional work is based on the federal law on sexual harassment.

⁴Adapted from the policy of the Iowa Conference policy.

4. Sexual malfeasance, which is defined as a breach of trust resulting from sexual contact (contact with breasts, buttocks or pubic area) within a ministerial or professional relationship. This definition is not meant to cover relationships between spouses nor is it meant to restrict church professionals from having respectful, social and/or marital relationships.
5. Unwelcome or offensive behaviors, including winks, leers, suggestive comments, crude language, pinching or tickling someone, or inappropriate hugs and kisses.

In addition to pastoral sexual misconduct, there have been a number of situations within the United Church of Christ in which a concern about a minister's fitness for ministry has arisen due to alleged inappropriate sexual behavior that allegedly occurred beyond the pastoral relationship. Examples include a pastor facing criminal charges of child molestation, although the child in question was not a parishioner, or a married pastor purportedly engaging in an extra-marital sexual relationship with a person who is not a parishioner or client.

Learnings About Persons Who Have Been Abused

Those who work with victims of sexual abuse need to be especially sensitive to the following generalized learnings:

- Victims of sexual abuse need their accusations to be taken seriously, to know that if they give voice to their story they will be safe, to hear that what happened to them was wrong, to hear that the church is sorry, and to hear that they were not at fault.
- Victims of sexual abuse are primarily interested in and motivated by the desire to protect other potential victims; they usually turn to civil or criminal arenas when the church fails to take them seriously.
- Victims of sexual abuse feel great shame. It is only when shame turns to anger that they have the energy to publicly articulate a question regarding fitness. Accompanying anger should not discount a person's story.
- Victims of sexual abuse may be greatly helped in their healing process by contact with other victims of sexual abuse.
- It is always the authorized minister's responsibility to maintain boundaries, regardless of consent of the other person involved. Victims are not blameworthy.

Learnings About Persons Who Abuse

The following learnings about types of person who abuse were developed from dozens of cases within the United Church of Christ.

The Individual in Crisis

This type of individual often has undergone some life crisis: death of a spouse or child, divorce, loss of a job,, etc. Because of the loss or crisis, the person may regress emotionally and spiritually and make choices that are poor ones. They are often using the relationship with the congregant or client to get their own needs met.

Most persons who receive adequate training in counseling know to be alert to the dynamics of “transference” and “counter-transference,” which are common occurrences in the course of counseling. When these dynamics are present, "falling in love" may be one of the feelings that surfaces. Adequately trained counselors know to recognize this dynamic, gain any insight it may provide into the issues of the client or congregant, and refrain from acting out those feelings. The individual in crisis, however, often uses the feeling of “falling in love” to justify crossing appropriate professional boundaries.

With counseling, this type of person may be able to comprehend the damage she or he has caused, and avoid future misconduct.

The Uninformed, Naive Person with Blurry Boundaries

This type of person usually has a poor sense of boundaries in several areas of his or her life. These persons may not see the inappropriateness of some behaviors in their ministries including indiscriminate hugging and touching, telling jokes with sexual innuendoes, and counseling at the church or in a parishioner’s home at times when no one else is present.

Often this type of person is unaware of the way his or her behavior is perceived by others. This type of person usually makes a series of small decisions that result in increasingly blurred and inappropriate boundaries. Often they “wind up” in a situation involving sexual contact with a congregant or client, and may even seem befuddled about the way in which they got into the situation. They may have difficulty accepting responsibility for the choices they made that resulted in misconduct, and may blame the other person or the situation for their own behavior.

Some persons in this category are able to learn new behavior with extensive counseling. To the extent that they are able to grasp the impact of their behavior, and learn new appropriate behaviors, continuation in ministry is possible. Such learnings are quite challenging, however, and some persons will not be able to substantially alter their behavior.

Person with a Sexual Compulsive Disorder

This type of person has a compulsion to act out sexually. The range of sexual activity varies and may include compulsive masturbation, use of pornography, sexual activity or intercourse with strangers or other high-risk groups. Often these persons risk everything for a sexual high.

Some professionals maintain that persons with a sexual compulsive disorder can attain some form of recovery through participation in a 12-step type program of treatment. Other professionals maintain that such programs only lengthen the time in between incidences of the persons acting out sexually. It is very questionable whether someone with this disorder should be placed in a position of pastoral leadership, as they have low impulse control and are at a much increased risk of crossing professional and sexual boundaries. ⁵

Persons with Some Form of Paraphilia

This type of person has some form of paraphilia disorder, which includes recurrent and intense erotic urges toward a person or some object that the average person does not find sexually arousing.

For example, pedophilia is the recurrent, intense sexual urge and/or fantasy involving sexual activity with prepubescent children. Other paraphilia include exhibitionism (exposing of one's genitals), ephebophilia (sexual arousal by or contact with adolescent children), and fetishism (arousal associated with an inanimate object).

The rate of recurrent behavior is very high, even if there are periods of time when the disorder seems to be in some form of remission. For example, it is not uncommon for a person with pedophilia to abuse more than a hundred children over their adult life span. It is never appropriate to have someone with one of these disorders in a position of pastoral leadership.

Person with a Severe Character Disorder

This type of person with a severe character disorder—sociopath or predator—often *appears* to be normal or gifted person, which makes this disorder difficult to identify, even by those who know the person relatively well. While appearing normal, these persons have a significant impairment and engage in repeated exploitative acts. Although they may convincingly feign remorse, they usually lack the capacity to feel genuine remorse and often feel justified at having hurt, mistreated, or stolen from another.

⁵Consider reading a book like [Lonely All The Time: Recognizing, Understanding and Overcoming Sexual Addiction for Addicts and Codependents](#) by Ralph Earle and Gregory Crow for a description of the disorder. Although these authors maintain hope for a more thorough recovery process than do most mental health experts, their descriptive work of the disorder is useful.

Often they are masterful at manipulating the legal or ecclesiastical system. They have no conscience, and experience no guilt. Rarely have they sustained a totally monogamous relationship for more than one year, although they may appear happily married. They frequently “con” others for their own personal pleasure. They believe they are special, and that the rules that apply to others do not apply to them. They often demonstrate a lack of empathy for the victim.

Because these persons are often charismatic and are marvelous actors and actresses, they may effectively convince a Committee on the Ministry they are an “individual in crisis,” who has only abused once and will never do so again.

This type of disorder is very resistant to treatment and the prognosis for full rehabilitation is poor. A person who fits in this category should never be placed or allowed to continue in a position of pastoral leadership.

Learnings about Congregations Where Pastoral Trust has been Betrayed

In spite of efforts to make churches safe places for all children, youth, and adults, Conferences and Associations do need to face the reality of congregations where a pastor or other leader has engaged in inappropriate and abusive behavior within the congregation. When the ministerial role and trust is violated in this way, the congregation itself becomes a victim and experiences a severe disruption in its life.

It may be helpful to view the life and dynamics of such a congregation through these three different perspectives in order to understand what is needed to provide ministerial leadership in this context.

Congregational Grief

In this perspective, a congregation first learning that abuse may have occurred within the life and ministry of the church confronts a significant loss. Something—innocence or naiveté—dies in a congregation confronted with this possibility. Often these congregations experience a deep sense of betrayal and a loss of confidence and trust related to the authorized minister under review and, often, all church leaders and authorized ministers.

Church leaders have a great deal of experience in understanding and helping people work through individual personal grief, which has application for congregational grief. For example, the varied reactions exhibited by the members of a family upon learning that a tragedy has taken the life of a family member may have some similarities with the reactions of congregation members upon learning that their pastor may have engaged in unethical conduct.

These responses to the violation of ministerial ethics are normal responses to grief. However, within a congregation individuals may exhibit any or all of these responses: “Not my pastor. My pastor couldn’t possibly do this,” “I never did trust the pastor,” or “Tell us what to do to make this all go away.” Others may simply withdraw into deep sadness and depression.

It is important to provide opportunities and safe places for persons to experience loss in their own way and to respect that others will be at different places at different times. Grieving cannot be ignored if there is to be any healing before moving on to the future.

Congregations as Wounded Systems

In this perspective, which comes from family and organizational systems theory, a congregation may be viewed as wounded when confronted with the possibility of ministerial abuse. Wounded systems often include:

- *Secrets*. In many congregations, there is a strong desire to keep things quiet and secret to avoid a public sense of scandal or shame. There is often strong resistance to “airing our dirty linen” and making the issues public.
- *In-groups*. Congregations can quickly become divided between persons who have information and persons who don’t. This division drives a deep wedge between the informed insiders and the disenfranchised outsiders.
- *Silence*. Persons often engage in “no talk/no feel” in an effort to avoid anything that brings the pain to the surface. People are often resistant to talking about the situation or expressing emotions related to the wound because it is painful.
- *Confrontation Avoidance*. Some congregations strongly resist confrontation of any sort. Conflict and confrontation at this point are feared as just making things worse.
- *Withdrawal*. In some congregations, people retreat from the situation. When a building is on fire, the sane thing to do is to get out and seek safety and leave the fire fighting to those with training and expertise. Many, including some of those with the greatest capacity to help the congregation deal with the situation, may withdraw and go to the church down the street until “this whole thing blows over.” They often leave those behind who have axes to grind and are less able to assist the congregation in healthy ways.
- *Ignoring the Situation*. In many cases, people simply ignore the unfolding reality in the hope that it will go away. Unfortunately, it almost never does.
- *Displaced Conflict*. Sometimes people focus on trivia rather than the issue. Rather than deal with the primary pain of the wound, congregations find themselves in constant battles over insignificant issues. Thus conflict may become a way of life unless the primary wound can be addressed and healed.
- *Over-Dependence on Authority*. In some congregations, people focus too intensely on hierarchical power and authority. Those with constitutional authority may no longer have the power necessary to provide leadership or checks and balances against the centralized power and control of one or a few leaders. Nancy Myer Hopkins, who has written and worked on these issues throughout the United States, has commented that the single most important predictor of a congregation’s recovery from such a wound is the extent to which the congregation has been disenfranchised from exercising its own authority and has come to rely on the centralized authority of the pastoral leader.

Systems theory not only suggests some characteristic symptoms of a wounded congregation, but also points to congregations that may be more likely to experience abuse. In general, congregations that are open and flexible systems are far more likely to have the necessary safeguards, checks, and balances needed to prevent authorized

ministers from going astray. Abusive leaders are more likely to be able to engage in inappropriate leadership when the congregation is closed and rigid.

Congregations that are inward thinking, isolated from other churches both in their denomination and in their community, and culturally and ideologically homogeneous are more likely to engage abusive leaders. Similarly, abuse is more likely to occur when congregations articulate a rigid and fixed theology—liberal or conservative. These congregations are generally intolerant of social, cultural, or theological diversity and find ambiguity very difficult to tolerate.

Congregations as Trauma Victims

In this perspective, informed by those people who respond to major community disasters such as airline crashes, churches may be viewed as victims of a major traumatic incident. It is important to remember that when a minister or other leader in the church violates the trust of the ministerial office, the congregation experiences this as a major traumatic incident. This is not a normal, everyday occurrence in the life of the church. It is an extraordinary event. It is not the people that are unusual in their response. It is the trauma that is unusual.

The capacity of the congregation to recover and heal from the traumatic incident over time will be directly impacted by the willingness or ability of the congregation to address and deal with the emotional reactions of people to the trauma. The longer people avoid dealing with the emotional impact of such an event, the less likely the congregation will be able to recover and heal from the trauma. The sooner emotional issues are acknowledged and faced, the more likely that the congregation will be able to emerge from this painful and difficult time. It is also true that the longer congregations delay facing these issues, the more difficult it will be to adequately address them. Some congregations may never recover because the trauma occurred too long ago and they are simply not able to deal with the impact of that trauma on their life.

Ministry with Congregations where Ministerial Trust has been Betrayed

Congregations where ministerial trust has been betrayed clearly benefit from three kinds of intentional ministry:

- *Information.* Congregations benefit from appropriate information about the circumstances leading up to the Fitness Review, the process being used to review the matter, and the outcome. Just as a grieving family needs information about the circumstances surrounding the death of a family member, congregations need to have good information before they can begin to accept that a trauma has occurred.
- *Listening.* Congregations benefit from a variety of opportunities to express, acknowledge, and work through the emotions of their experience. A variety of opportunities need to be provided for persons to come together to simply share and listen to one another in a safe and nurturing environment. Ideally there will be opportunities to listen both individually and in the context of the community.
- *Education.* Congregations that have taken the first steps are often able to move further by learning more about the abuse they experienced and the presence of other forms of abuse within the community. They may develop policies and procedures designed to prevent future abuse. They may become interested in learning more and beginning to address the broader issues surrounding abuse in the wider community. Education not only prepares them to address these future opportunities for ministry, but is very helpful for congregations coming to terms with and seeking to understand their own history.

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