

**A POLICY AND PROCEDURE FOR
MINISTERIAL AND STAFF MISCONDUCT**

an MCEC Policy
Adopted 02, 20, 2002
Revised September 30, 2008

by resolution of the MCEC Executive Council

This policy and procedure is intended to govern ministerial and staff sexual misconduct and ministerial and staff misconduct. This document is a version of the denominational policy named "*Ministerial Sexual Misconduct Policy and Procedure*" and has been adapted for use in MCEC.

In MCEC this *Policy and Procedure* shall be used to investigate any charge of misconduct against:

- (1) a person holding ministerial credentials in MCEC; or
- (2) a person employed by MCEC; or
- (3) a volunteer MCEC Council or committee member if the conduct complained of was connected to such person's role as Council or committee member.

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A POLICY AND PROCEDURE FOR MINISTERIAL AND STAFF MISCONDUCT

Ministerial Sexual Misconduct or any other form of Misconduct Policy

A Minister shall not enter into Sexualized Behaviour with a person with whom the Minister has a Professional Relationship. A Minister is always responsible to prevent such behaviour. The Conference Sanctions Ministers who engage in such Misconduct.

A Minister shall not engage in any other form of Ministerial Misconduct. The Conference Sanctions Ministers for an act or omission by a Minister that is contrary to the policies or principles of the Conference.

Complaint Procedure

Section 1) Introduction

This procedure is a means for the conference that extends Credentials to an accused Minister to make factual determinations about Complaints of Ministerial Sexual Misconduct and to impose Sanctions when warranted.

This procedure is also a means for the conference that extends Credentials to an accused Minister to make factual determinations about Complaints of other forms of Ministerial Misconduct and to impose Sanctions when warranted.

The procedure shall also be used as a means for a conference to make factual determinations about Complaints of Sexual Misconduct and other forms of Misconduct carried out by any person employed by MCEC or a volunteer MCEC Council or committee member if the conduct complained of was connected to such person's role as Council or committee member. If necessary, the conference shall impose Sanctions when warranted.

In the event that the focus of the Complaints and Sanctions is a person other than a Minister, this guideline shall be amended to replace word "Minister" with the word "Staff Person" or "Committee Member" or "Council Member" as may be necessary and applicable under the circumstances.

Various response may be needed, but the focus of this procedure is *disciplinary*. Therefore, needs for healing, recompense, repentance and forgiveness are not comprehensively addressed in this procedure.

The Conference may vary this procedure when addressing Complaints. The Conference may address several Complaints against a Minister in one proceeding, or may conduct a separate proceeding for each Complaint.

Clarity facilitates fact finding and discipline. Therefore, certain terms are defined in this Policy and Procedure. Defined terms generally are capitalized in the text.

Section 2) **Definitions**

Terms have these meanings in this Policy and Procedure:

Appeal Panel: Three persons appointed by the Conference Executive to hear a Minister's appeal from a Judgment of guilt of Misconduct.

Board Member: shall mean a member of the Executive Council as defined in the bylaws of the Mennonite Church Eastern Canada.

Charge: Verb: Action by the Conference to formally accuse of Misconduct, based on a written Complaint. *Noun:* A formal accusation of Misconduct, brought by the Conference, based on a written Complaint.

Child Abuse: Constitutes Sexual Assault, Sexual Harassment, Child Sexual Abuse, physical abuse, physical neglect, and emotional abuse-neglect.

Child or Children: In Ontario refers to a person(s) under the age of sixteen (16) years. In jurisdictions outside Ontario consult the appropriate provincial authorities.

Child Sexual Abuse: Occurs when anyone engages in sexual contact or Sexualized Behaviour with a Child. It includes any form of physical contact for sexual purpose or any other behaviour not involving contact which may be considered Sexual Behaviour directed towards a Child. Child Sexual Abuse does not include normal affectionate behaviour towards children and excludes normal health and hygiene care.

Committee Member: shall mean a member of any committee appointed by the Executive Council as set out in the bylaws of the Mennonite Church Eastern Canada.

Complainant: One who alleges that a Minister engaged in Misconduct.

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

Conference: Mennonite Church Eastern Canada (MCEC), an affiliated body of Mennonite Church Canada and Mennonite Church USA. Conference may also refer to a conference body as defined in Section Six (6).

Conference Executive: The person who holds the office of Executive Minister in the Conference.

Contact Person: A Complainant's Contact Person assists a Complainant in preparing a Complaint, selecting a Personal Supporter, and reporting to governmental authorities any child abuse or other violation for which reporting is required by law. An accused Minister's Contact Person assists the Minister in selecting a Personal Supporter. Contact Persons shall not have supervisory responsibilities for the accused or have any other material responsibilities related to the accused or the Complainant.

Credential: Verb: To ordain, license or commission a Minister; to accept responsibility for the continued authorization of an ordained, licensed or commissioned minister to act as a Minister. *Noun:* The recognition of ministerial authority that is granted to a Minister by a Credentialing conference. A conference that issues a Credential may transfer to another Credentialing conference responsibility for the continued grant of the Credential.

Evidence: Proof presented by witnesses, documents, objects, or other means, in order to induce belief.

Findings of Fact: The Investigators' factual determinations regarding a Charge of Misconduct, based on Evidence presented at a fact-finding meeting with the accused Minister, or based on the accused Minister's acknowledgment.

Investigators: Three persons appointed by the Conference to investigate a Complaint by an individual and to advise whether there are Probable Grounds for the Conference to bring a Charge. If a Charge is brought, the Investigators act as fact finders.

Judgment: Determination of guilt or acquittal by the Ministerial Leadership Committee, based on the Investigators' Findings of Fact.

Jurisdiction: The disciplinary authority of a conference to which a Minister is accountable at the time a Complaint is filed.

MCEC: Mennonite Church Eastern Canada

Minister: One who has been ordained, licensed or commissioned to act as a Minister of the Conference or as agent of an organization that the Conference acknowledges is Conference-related.

Ministerial Leadership Committee: The Conference committee that Credentials and disciplines Ministers. (In MCEC, the Leadership Council)

Ministerial Sexual Misconduct: Sexualized Behaviour by a Minister, involving one with whom the Minister has a Professional Relationship.

Misconduct: An act or omission by a Minister that is contrary to the policies or principles of the Conference.

Non-disciplinary Leave of Absence: A leave with pay, granted to a Minister by a congregation or other employer, in its discretion.

Overseer: The Conference Minister, Bishop or other ordained Conference officeholder to whom a Minister is accountable for the conduct of ministry.(In MCEC the Conference Minister.)

Partiality: Being or acting with unfair bias.

Personal Supporter: A Personal Supporter may be selected by a Complainant. A Personal Supporter may be selected by an accused Minister. Each Personal Supporter shall become familiar with this Policy and Procedure, and shall ensure that pastoral care and emotional, spiritual and practical support are extended. When requested, the Personal Supporter shall accompany the one supported, as observer, to meetings required by this Policy and Procedure. The Personal Supporter does not advocate to the Conference, the Ministerial Leadership Committee, the Overseer, the Investigators or the Appeal Panel. The Personal Supporter may, however, object to the Investigators or the Chair of the Ministerial Leadership Committee if the Personal Supporter believes this Policy and Procedure is not fairly administered. Personal Supporters shall not have supervisory responsibilities for the accused or have any other material responsibilities related to the accused or the Complainant.

Policy and Procedure: This Policy and Procedural Guideline Intended to Govern Ministerial and Staff Sexual Misconduct and Ministerial and Staff Misconduct.

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

Probation: Restrictions imposed upon a Minister for a stated period or until further notice, because of Misconduct.

Professional Relationship: The relationship between a Minister and one who relates or has related to the Minister as congregant, student, counselled, employee, or in a comparable role, while the Minister was engaged in the conduct of ministry. A Professional Relationship does not include:

- A married Minister's relationship with the Minister's spouse; or
- An unmarried Minister's dating relationship with an unmarried person with whom the Minister has had a Professional Relationship, if the Minister has clearly communicated to the person that the Minister will not provide for, and another minister should provide for, all one-to-one professional ministerial responsibilities concerning the person.

Prohibition from acting as a Minister in this Conference: A Sanction that may be imposed by this Conference if it is not extending Credentials to a Minister, but the Minister's Misconduct warrants Sanction.

Reporting Requirements: Statutory requirements under provincial law that mandate the reporting of Child Abuse to the appropriate authorities. Requirements may vary from province to province.

Sanction: *Verb:* To discipline a Minister. *Noun:* Reprimand, Probation, Suspension, Withdrawal of Credentials, Prohibition from acting as a Minister in this Conference, or other disciplinary action.

Secure Personnel File: The Conference's personnel file regarding a Minister's Misconduct or alleged Misconduct, maintained by the Conference, separate from general files, during the Minister's lifetime.

Sexual Assault: Is a criminal act involving unwanted or forced sexual contact and/or activity.

Sexualized Behaviour: Acts that show sexual interest or a choice to make the sexual dimension overt in a relationship. Sexualized Behaviour may include inappropriate discussion of sexual matters, touching and other actions.

Sexual Harassment: Any behaviour which subjects a person to unwanted verbal or physical attention of a sexual nature. Sexual harassment may involve one incident or a series of incidents that consist of verbal, emotional, mental, or physical conduct or any combination thereof. It includes a wide range of behaviour, from innuendo to lewd comments, to sexual jokes, to unwanted or inappropriate touching, to overt demands for sexual favours.

Suspension: Suspension of a Minister's privileges and duties as a Minister for a stated period or until notice from the Conference.

Withdrawal of Credentials: Revocation of the ordination, license or commission of a Minister, which terminates service as a Minister.

Section 3) **Standards of Proof**

To address Misconduct alleged in a Complaint, these standards of proof apply:

Individual's Complaint. If Misconduct is alleged in a Complaint, the Conference investigates.

Conference's Charge. When the Conference decides whether to bring a Charge of Misconduct: After investigation, would a reasonable person believe that the Conference *can present Evidence* that the accused, *more likely than not*, engaged in Misconduct? If the investigation indicates the Conference can demonstrate such Probable Grounds, the Conference generally brings a Charge.

Fact Finding for Judgment. After the Conference, the Complainant, and the accused Minister have been given opportunity to present Evidence at the Investigators' fact-finding meeting, the Investigators determine: Does the *Evidence demonstrate* that the accused Minister, *more likely than not*, engaged in acts of Misconduct? If such Probable Grounds are found, the Judgment of the Ministerial Leadership Committee is guilty. If such Probable Grounds are not found, the Judgment is acquittal.

Appeal. If an accused Minister appeals to the Conference Executive after Judgment of guilt: Has the *Minister demonstrated that there are not Probable Grounds* for the Judgment?

Section 4) **Suggested Timeline**

*Normally, not necessarily,
completed by:*

Complaint.

Charge. The Ministerial Leadership Committee determines whether to Charge.

16 days after
Complaint

Accused's Response. After receipt of a Charge, Minister agrees with or disputes Charge.

21 days after
Complaint

Fact-Finding. Investigators conduct a fact-finding meeting.

26 days after
Complaint

Fact-Finding Report. Investigators deliver Findings of Fact to Ministerial Leadership Committee.

28 days after
Complaint

Judgment/Sanctions. Ministerial Leadership Committee renders Judgment of acquittal or guilt and, after a Judgment of guilt, imposes Sanctions.

35 days after
Complaint

Appeal. The Minister may appeal within 10 days after being informed of the Judgment.

Note deadline for
appeal

Appeal Hearing.

30 days after appeal

Section 5) **Complaint by an Individual**

- a) *Report of Misconduct.* A person who believes that a Minister has engaged in Ministerial Sexual Misconduct or any other form of Misconduct may report that information to an Overseer, a member of the Ministerial Leadership Committee, or the Conference Executive. The recipient of the report shall inform the Chair of the Ministerial Leadership Committee.
- b) *Provide resources to Complainant.* The Chair of the Ministerial Leadership Committee shall:
 - i) *Give the Complainant this Policy and Procedure.*
 - ii) *Offer a Contact Person* to assist the Complainant in preparing a written Complaint, selecting a Personal Supporter if desired by the Complainant, and reporting to governmental authorities any Child Abuse or other violation for which reporting is required by law.
 - iii) *Review personnel files*, including any Secure Personnel File that the Conference maintains concerning the accused Minister.
 - iv) *Determine whether immediate action should be taken*, as a result of Complainant's allegations, to prevent interaction between the accused and the Complainant.
- c) *Request a signed Complaint.* If a signed Complaint is not received from the Complainant, a Charge shall not be brought unless some other person signs a Complaint.
- d) *Notify Conference Executive.* The Chair of the Ministerial Leadership Committee shall inform the Conference Executive when a Complaint of Ministerial Sexual Misconduct or any other form of Misconduct is received.

Section 6) **Jurisdiction**

Jurisdiction to address a Minister's alleged Misconduct exists in:

- This Conference, if this Conference currently Credentials the Minister.
- This Conference, if the Minister is serving as an agent of an organization which this Conference acknowledges is Conference-related.
- Any other conference that Credentials the Minister.
- The conference of the congregation in which the Minister has membership or is serving.

The Conference Executive of this Conference shall inform the conference executive of any other conference that currently Credentials the accused that a Complaint of Misconduct by

the accused is being investigated. The executives of the two conferences shall confer regarding which conference shall exercise Jurisdiction. Generally, but not always, conferences shall exercise Jurisdiction in the order of priority shown above. If there is disagreement or lack of clarity about which conference should take priority in exercising Jurisdiction, the conference executives shall confer with the denominational Ministerial Leadership office, and that office may recommend which conference shall exercise Jurisdiction. The disciplinary Jurisdiction of this Conference is not limited because a secular professional Credentialing entity is investigating or has investigated an allegation of misconduct by an accused Minister.

Although this Conference may not revoke Credentials that currently are extended by another entity, if this Conference finds that a Minister is guilty of Misconduct that would warrant Sanctions, this Conference may prohibit the Minister from acting as a Minister in this Conference or impose conditions that limit how the Minister may serve in this Conference.

After this Conference determines it has Jurisdiction, Jurisdiction shall continue until the Conference determines otherwise. Jurisdiction may continue after a Minister has relinquished or lost credentials. If a Minister refuses to cooperate with the Conference pursuant to this Policy and Procedure, such refusal shall be noted in the Secure Personnel File that the Conference maintains concerning the Minister.

Section 7) **Preliminary Investigation and Charge by Conference**

If the Ministerial Leadership Committee receives a Complaint that alleges Misconduct by a Minister and if Jurisdiction is in this Conference, the Ministerial Leadership Committee shall appoint three Investigators (who may be members of the Ministerial Leadership Committee but not the Conference Executive), including a Chair. Generally, the Investigators shall include one member of the same congregation as the accused Minister. Any objection about Partiality or other unfairness in the selection of Investigators shall be described in writing to the Ministerial Leadership Committee. The resulting decision of the Ministerial Leadership Committee concerning the objection shall be binding, but subject to later Appeal if the accused appeals from the Judgment after Findings of Fact are concluded. Partiality shall not be assumed because a person is a member or a leader in the Conference. The Investigators shall:

- a) *Notify those who need to know.*
 - i) *Notify Minister.* The Investigators shall inform the accused Minister that a Complaint alleging Ministerial Sexual Misconduct or any other form of Misconduct has been filed and an investigation will be conducted. They shall inform the Minister of the identity of the Complainant and direct the Minister not to communicate with the Complainant about the Complaint. They shall give the Minister this Policy and Procedure, and offer a Contact Person to assist the Minister in selecting a Personal Supporter, if desired by the Minister.
 - 1b. *Notify Parents or Guardians & Authorities.* If the Complainant is a Child, the parents or guardians of the Complainant must be notified. Further, if the Complainant is a Child, depending on the nature of the complaint, the statutory reporting requirements under Ontario law of *a child in need of protection* may also be triggered. See “*Statutory Requirements*” in Appendix 1. Similar provisions may exist in provincial law for jurisdictions outside Ontario. Consult the appropriate authorities.
 - ii) *Notify congregational leaders.* The Investigators shall inform the chair of the governing board of the Minister's congregation (or other Conference-related employer of the Minister) and any other Ministers for the congregation that a Complaint has been received and give them this Policy and Procedure.
 - iii) *Consider Non-disciplinary Leave of Absence and announcement to congregation.* Because of public knowledge or because of concern for the welfare of the accused, the Complainant or the congregation (or other employer), it may be advisable for the governing body of the congregation (or other employer) to grant the Minister a Non-disciplinary Leave of Absence from all responsibilities as Minister, with pay, while a Complaint is being investigated. Generally, only when a Non-disciplinary Leave of Absence is granted should the investigation be publicly announced. If an announcement is desired, the chair of the governing board of the congregation (or other employer) should consider discussing with an

attorney whether an announcement such as this is appropriate: "(The named Minister) has been granted a leave of absence from all responsibilities as minister while a complaint is being investigated. The fact that a complaint is being investigated does not mean that misconduct has occurred. Conference policy requires an investigation." If the Investigators at any time believe such a Non-disciplinary Leave of Absence and announcement are necessary, they shall inform the chair of the governing board of the congregation (or other Conference-related employer).

- b) *Conduct a preliminary investigation.* The Investigators shall:
- i) Consult with legal and other advisors as appropriate.
 - ii) Notify the Complainant that an investigation is occurring.
 - iii) Have at least two Investigators present to interview the Complainant, review any Evidence, and request that the Complainant give a signed written statement if they believe additional information may be needed to substantiate any of the allegations in the Complaint.
 - iv) Interview other persons who may have relevant information.
 - v) Have at least two Investigators present to conduct a preliminary interview with the accused Minister. Inform the Minister of the nature of the alleged Misconduct (but the Investigators may, in their discretion, decline to show the signed Complaint). Advise the Minister that the Investigators are willing to receive information, and any statements by the Minister may be used in disciplinary proceedings. Review any relevant Evidence offered by the accused Minister.
 - vi) Keep accurate records of interviews, including the date, parties present, and name of the recorder.
 - vii) Prepare a written report to the Ministerial Leadership Committee. The report shall be based, as much as feasible, on statements of witnesses with direct knowledge, rather than on second-hand sources or circumstantial Evidence. The report shall include:
 - (1) Evidence, which the Investigators believe they can present, that the Minister, more likely than not, engaged in Ministerial Sexual Misconduct or any other form of Misconduct. The report will clearly outline the source and basis of statements and information that is provided as evidence.
 - (2) Any reasons why the Investigators believe they cannot present such Evidence.
 - (3) A recommendation that the Conference bring a Charge, decline to Charge, or investigate further.

viii) If necessary, ask the Ministerial Leadership Committee to extend the time to conclude the Investigators' written report.

c) *Decline to Charge or bring a Charge.*

Upon receipt of the report of the Investigators, the Chair of the Ministerial Leadership Committee shall convene the Committee. The Committee shall seek counsel as it deems appropriate from any other conference that is involved with the alleged Misconduct and shall seek counsel from leaders in the congregation in which the accused is a member. The Committee shall decline to Charge, bring a Charge, or authorize further investigation.

i) *Decline to Charge.* If the Ministerial Leadership Committee does not believe that the Conference can present Probable Grounds to support any allegation of Misconduct, the Chair of the Ministerial Leadership Committee shall decline to Charge and shall:

- (1) Inform the Minister in writing.
- (2) Inform the Complainant.
- (3) Deliver the file to the Conference Executive, who shall maintain it as a Secure Personnel File.
- (4) After conferring with the Minister, make appropriate reports to those involved.

ii) *Bring a Charge.* If the Ministerial Leadership Committee believes that the Conference can present Evidence that the Minister, more likely than not, engaged in Ministerial Sexual Misconduct or any other form of Misconduct, the Chair shall:

- (1) *File a Charge with the Conference Executive, setting forth:*
 - (a) The name of the Minister.
 - (b) The name of the Complainant.
 - (c) The alleged Ministerial Sexual Misconduct or any other form of Misconduct.
 - (d) Sufficient information about date, time, place and circumstance to specifically inform of each incident complained of. (Describe multiple incidents of alleged Misconduct in separately numbered paragraphs, so that the accused may respond to each paragraph.)
 - (e) Direction that within five days of the Minister's receipt of the Charge, the Minister shall deliver to the Chair of the

Investigators a signed statement, responding to each numbered allegation in the Complaint, stating:

- (i) That the Minister agrees with the allegation, or
 - (ii) That the Minister disputes the allegation and setting forth all the reasons the Minister disagrees, as well as the Minister's full account of each disputed incident that is alleged in the Charge.
- (f) Notice that the Investigators will schedule a fact-finding meeting at which the Minister will have opportunity to respond in person to the Charge; and notice to the Minister that if the Minister believes the Complainant or any other person should be present at the fact-finding meeting, the Minister shall in writing identify such person and state why presence is desired.
- (g) Direction that the Minister shall not communicate with the Complainant about the Charge.
- (h) Any additional information the Committee believes should be given to the Minister before the meeting.
- (i) The signature of at least one of the Investigators.
- (2) *Deliver the Charge to the Minister.* If personal delivery is not practical, the Minister's written receipt may be obtained, or the Charge may be mailed to the Minister's last known address by certified mail, return receipt requested.
- (3) *Inform the Complainant.* Inform the Complainant that a Charge has been filed by the Conference and a fact-finding meeting with the Minister will be held.
- iii) *Investigate further.* Upon receipt of the report of the Investigators, the Chair of the Ministerial Leadership Committee may authorize such additional investigation as the Chair deems appropriate for a period up to 30 days, before deciding whether to bring a Charge or decline to Charge. However, if another proceeding, such as a court proceeding, is commenced or anticipated, the Ministerial Leadership Committee may delay further action, pending the outcome of the other proceeding.
- iv) *Long-ago Misconduct.* A Charge of Misconduct may be brought for acts that allegedly occurred many years before. Reliability of memory and availability of witnesses and Evidence should be taken into account when deciding whether to Charge. In some such cases, the Ministerial Leadership Committee may decide that a less formal means than that described in this procedure is appropriate to address the alleged Misconduct.

- v) *Previously-disciplined Misconduct.* A Charge shall not be brought concerning Misconduct which an accused Minister demonstrates the Minister fully and accurately disclosed as part of a prior disciplinary proceeding by a conference that had Jurisdiction. The Findings of Fact and the Judgment in an earlier disciplinary proceeding may, however, be considered, if relevant to a current Charge by this Conference. Relevancy may include prior Misconduct of the type described in a current Complaint.

Section 8) **Fact Finding**

- a) *Conduct a fact-finding meeting.* After a Charge is brought, the Investigators shall schedule a fact-finding meeting concerning the Charge and request that the Minister attend. The Investigators may ask to attend witnesses whose testimony may be needed to establish Probable Grounds. The Investigators may or may not request that the Complainant attend and testify, depending on whether they believe the Complainant's testimony will be needed to establish Probable Grounds. The Complainant cannot be required to attend or testify. The Investigators shall designate one of their number to moderate the meeting. They shall be alert to differences of power and persuasive abilities among those who attend. They shall keep order and not allow any participant to act inappropriately. This meeting is not governed by judicial rules of evidence or procedure. Any participant may ask for a brief recess to consult with a lawyer or other advisor. The Investigators shall:
 - i) *Read or otherwise identify the Charge.*
 - ii) *Receive any preliminary response from the Minister.*
 - iii) *Offer Evidence of Misconduct.* If the Minister has not in writing agreed with any particular allegation in the Charge, Evidence shall be offered concerning such allegation. Generally, Evidence should be offered by the testimony of witnesses with direct knowledge, rather than second-hand reports or circumstantial Evidence. On occasion, it may be necessary to present testimony by written, video or audio recordings. Such secondary means should be used with caution, however, because the lack of direct communication may leave doubts about whether the Evidence demonstrates Probable Grounds.
 - (1) The Personal Supporters for the Complainant and the accused may be present.
 - (2) The Investigators shall endeavour to create a safe environment for witnesses to testify. The Investigators shall permit the accused to respond. The Investigators shall be the only ones who question witnesses, but shall give the Complainant, the accused, and the Personal Supporters opportunity to give the Investigators questions

that any of them believe the Investigators should ask (but are not obligated to ask).

- (3) Generally, character witnesses as to good or bad character shall not be permitted.
 - iv) *Hear any objections about unfairness.* If the Complainant, the accused or a Personal Supporter believes the proceedings are not being conducted fairly, they may state the objection, and the Investigators shall decide the merits of the objection.
 - v) *Propose Findings of Fact.* If the Minister disagrees with any proposed Findings of Fact, the Minister immediately shall inform the Investigators of all the reasons why the Minister disagrees. If the Investigators and the Minister do not agree on the facts, the Investigators may, nevertheless, find that there are Probable Grounds to support the Investigators' Findings of Fact.
 - vi) *Make Findings of Fact.* The Investigators shall make unanimous, numbered, written Findings of Fact and shall give the Minister a copy signed by the Investigators.
- b) *Deliver Findings of Fact.* The Investigators shall give the Chair of the Ministerial Leadership Committee the Investigators' signed Findings of Fact concerning each incident of Misconduct alleged in the Charge, and any written statement of the Minister that confirms or challenges any of the Findings of Fact. Further, the investigators will note the sources of the Findings of Fact, whether or not their Findings and Facts are based on direct or secondary evidence, and whether the Minister disagreed with any of the Findings of Fact. The investigators will also forward any written statements that the Minister has provided.
- c) *Deliver File.* The Investigators shall give the Chair of the Ministerial Leadership Committee their file, including the Complaint, Charge, Findings of Fact, any Minister's response, and any Evidence.

Section 9) **Judgment and Sanctions**

The Ministerial Leadership Committee shall:

- a) *Determine a Judgment* of guilt or acquittal of Misconduct, or refer the matter back to the Investigators for further Findings of Fact and further reporting to the Committee.
- b) *Inform Minister of any Sanctions.* Promptly after a Minister is found guilty of Misconduct, the Ministerial Leadership Committee shall inform the Minister in writing of Sanctions imposed by the Committee, including, the form of each Sanction, whether the Sanction continues for a stated period or until further

notice, when and how the Minister shall report concerning compliance, and any other requirements imposed by the Committee.

- c) *Monitor Compliance with Sanctions.*
 - i) At such times and in such manner as the Ministerial Leadership Committee prescribes, the Minister shall report to the Chair of the Committee regarding compliance with the Sanctions and what relevant actions the Minister has taken.
 - ii) The Chair shall promptly inform the Ministerial Leadership Committee if it appears that the Minister is not in full compliance. The Committee may require the Minister to appear before the Committee at any time and may impose additional sanctions if it finds that the Minister is not in full compliance.
- d) *Make appropriate announcement* to those involved, including the Complainant. If the Minister is acquitted of Misconduct the Committee, in its sole discretion, and depending on the circumstances, may affirm and support, or recommend how congregational leaders may affirm and support, the continued ministry of the Minister.
- e) *Report to the Conference Executive the Judgment and any Sanctions.*

Section 10) **Appeal**

An accused Minister may appeal to the Conference Executive from a Judgment of guilt. Because the focus of this procedure is ministerial discipline, not redress for wronged individuals, no other appeal shall be made by any person concerning any action under this Policy and Procedure. Upon request of an appealing Minister, the Conference Executive shall decide whether to delay the imposition of any Sanction, pending outcome of the appeal.

- a) *Notice of appeal.* The Minister shall give written notice of any appeal to the Conference Executive within ten days after the Minister is informed of the Judgment by the Ministerial Leadership Committee. The notice of appeal shall be signed by the Minister and state all grounds for appeal.
- b) *Grounds for appeal.* The Minister in writing shall state facts and reasons that demonstrate why there are not Probable Grounds for each Finding of Fact that the Minister challenges, and why there are not Probable Grounds for the Judgment of guilt.
- c) *Appointment of Appeal Panel.* Upon receipt of an appeal, the Conference Executive shall appoint an Appeal Panel consisting of three persons, including a chair. The Conference Executive may be a member of and may chair the panel. No member of the panel shall be an Investigator, a member of the

Ministerial Leadership Committee, a member of the same congregation as the Minister, or have any relationship that materially affects impartiality.

- d) *The Appeal Panel shall:*
- i) *Give the Minister and the Investigators notice* of the date, time and location of the appeal hearing.
 - ii) *Convene* as designated, and
 - (1) *Read or otherwise identify the notice of appeal.*
 - (2) *Allow the Minister to explain* why the Minister believes there are not Probable Grounds to support the Judgment of guilt.
 - (3) *Have one or more of the Investigators review* the Charge, the Evidence supporting the Findings of Fact, and the Judgment.
 - (4) *Deliberate* in private and decide by consensus (but in the absence of consensus, by majority vote).
 - (5) *Affirm the Judgment, unless the Minister has demonstrated that there are not Probable Grounds.* Generally, the Appeal Panel shall defer to factual determinations made by the Investigators and shall focus on whether the Findings of Fact support the Judgment and Sanctions. However, if the Appeal Panel determines that there are not Probable Grounds or that the Sanctions are not reasonable, the Appeal Panel may modify the Judgment or the Sanctions, as appropriate, or may refer factual questions to the Investigators so that the Investigators may receive additional Evidence at a meeting with the Minister and provide additional Findings of Fact to the Appeal Panel. The Appeal Panel shall inform the Minister and the Investigators of the time and location of a subsequent appeal hearing to address any such new or changed Findings of Fact.
 - (6) *Give written notice* of the Appeal Panel's decision to the Minister and the Conference Executive. Give appropriate notice to others involved, including the Complainant.
 - (7) *Give minutes* of the appeal hearing to the Ministerial Leadership Committee or to the Conference Executive responsible for holding ministerial files, to be added to the Minister's Secure Personnel File.

Section 11) **Credentialing a Sanctioned Minister**

- a) *After indefinite Suspension.* After credentials have been suspended indefinitely, a Minister may apply to the Ministerial Leadership Committee for reinstatement.

- i) With the application the Minister shall, in writing, address
 - (1) Whether the Minister acknowledges the accuracy of the Findings of Fact and the Judgment;
 - (2) Whether the Minister has repented of the Misconduct;
 - (3) How the Minister has, as a result, altered beliefs, behaviour or both;
 - (4) Whether the Minister has cooperated fully with the Investigators and the Ministerial Leadership Committee; and
 - (5) Any other relevant information.
 - ii) The Ministerial Leadership Committee may require other information and shall determine whether the contents of the application are satisfactory.
 - iii) Reinstatement shall occur only if the Ministerial Leadership Committee, in its discretion, deems reinstatement appropriate.
- b) *After Withdrawal of Credentials.* Credentialing shall occur only through a new licensing or ordination process after the Minister has submitted an application to the Ministerial Leadership Committee, addressing the matters set forth in Section 11.A, above.
- c) *After other Sanctions.* The Minister shall be subject to any Sanctions as long as the Ministerial Leadership Committee has determined Sanctions shall be effective. The Committee may modify or extend Sanctions as the Committee deems appropriate.

Section 12) **Forms Supplement**

Illustrative forms, which are not a part of this Policy and Procedure, have been prepared. The forms may be adapted for particular circumstances.

Section 13) **Adoption of this Policy and Procedure**

This Policy and Procedure was adopted by the Mennonite Church Eastern Canada (MCEC) on February 20, 2002 as authorized by a resolution approved by the MCEC Executive Board on February 20, 2002. This Policy and Procedure has been adapted for use in MCEC. It is based on a document of a similar name which has been adopted by conferences affiliated with MCEC. In order to keep nomenclature in this policy consistent with changes in MCEC structures, a revised version of this policy was adopted by the MCEC Executive Council by a resolution approved by them on September 30, 2008.

Appendix 1. **Statutory Requirements**

Section 72(2) of the Ontario Child and Family Services Act imposes a duty upon various professionals to report when they believe on reasonable grounds that a child is or may be in need of protection of Family and Children's Services.

Section 72(3) and (4) impose the same duty on various professionals to report suspicions that a child is or may be suffering or may have suffered abuse. This duty applies to every person who performed professional or official duties with respect to a child including teachers, principals, social workers, family counsellors, priests, members of the clergy, nursery, recreational workers, etc.

There is an obligation under the law to report Child Abuse to provincial authorities. If such an allegation is made about a person who functions under the scope and jurisdiction of the church, the Conference will cooperate with provincial authorities and follow their directives.