

NORTHEAST GEORGIA PRESBYTERY SEXUAL MISCONDUCT POLICY

SEXUAL MISCONDUCT

includes sexual harassment, child sexual abuse, rape, and/or any sexual activity within a ministerial relationship. This policy covers church members, church officers, ministers, volunteers, and employees of the church.

Northeast Georgia Presbytery adopted this policy in order to make clear the procedures for reporting and responding to allegations of sexual misconduct

What should you do if you learn of an incident of sexual misconduct?

The victim, or a family member or friend of the victim, should submit a written report to the stated clerk of the presbytery. An elder or deacon who learns information about sexual misconduct from any source may submit a written statement to the stated clerk of the presbytery or the chairperson of the Committee on Ministry.

Where do you send a written report?

**Attention: Chair, SMPRT
Northeast Georgia Presbytery
186 Ben Burton Circle, #100
Bogart, GA 30622**

What will happen after an allegation is made?

The allegation will be handled with strict confidentiality. The stated clerk of the presbytery will refer the allegation to an investigation committee of the presbytery, and to a pastoral response team. The investigating committee will proceed according to the procedures outlined in *Book of Order* D-10.0202. The pastoral response team will minister to the alleged victim, the accused, the families involved, and the congregation, as needed.

A complete copy of the Northeast Georgia Presbytery Policy and Procedures on Sexual Misconduct can be found in your church office or from our website: negapby.org

Section Four: Appendix E

Sexual Misconduct Pastoral Response Team – Policies and Procedures

Theological Basis

The policy of Northeast Georgia Presbytery on sexual misconduct is set in the framework of what it means to be a sexual person in Christian faith and a servant in the Church. Our sexuality, as a dimension of our whole selves, is to be offered to God. In the expression of sexual desires we are called to holiness. God values sexuality as good, blessed, and purposeful as an expression of love and for the procreation of children. Sexuality is a gift to be celebrated. We are called to be responsible in the use of our sexuality and to respect each other as children, women, and men made in the image of God. From this belief in the sacredness of our physical beings we understand and declare that every person has the right to sexual and bodily integrity.

All those who serve the Church within this Presbytery in either a temporary or permanent relationship, including clergy, staff, church officers and volunteers, are expected to adhere to Christian ethical principles in their sexual conduct and in their exercise of authority and power. The Church and its extended ministries are to be seen as safe places in the community, places where it is known that sexual misconduct is not tolerated. This is part of our Christian witness to the community. Therefore, the leadership of any group using church premises for their activities is also subject to this policy.

Our commitment is to model the example of Christ and to be rooted in the love of Christ in all relationships. For any Christian to betray trust by the grave transgression of sexually abusing another, whether child or adult, is to deny his or her own Christian identity, as well as to deny to the one abused the witness to the risen Christ in the world. Such a betrayal will be a gross injury to the one abused and a violation of faithfulness to Christ. Because of the serious consequences of sexual abuse, the Church must make every effort to ensure that sexual abuse does not occur within its jurisdiction. When such abuse does occur, the church must make a clear and just response.

Northeast Georgia Presbytery affirms that all forms of sexual misconduct are sinful and contrary to God's will for humanity.

It is, therefore, the policy of Northeast Georgia Presbytery that sexual misconduct or harassment of any kind by any minister, church officer, staff or volunteer will be dealt with immediately in accordance with the presbytery's policy and procedures on sexual misconduct.

NOTE: The above statement is adapted from the Theological Basis of the Presbyterian Church in Canada and the personnel guidelines of the PC (USA) in Louisville, Kentucky.

Guiding Principles

All allegations of sexual abuse, sexual harassment, and sexual misconduct will be taken seriously. Every allegation will be received, investigated and acted upon in accordance with the terms of this policy.

The accused person is always presumed innocent until proven guilty. In the context of this policy, no adverse finding will be made public or revealed against an accused person until a full investigation is completed and it has been determined that the complaint has been substantiated by a preponderance of evidence.

The protection of children is a priority. Persons having reasonable cause to suspect sexual abuse of a child will report it to the appropriate secular agency for immediate investigation.

I. Policy Statement and Purposes

A. Policy Statement

It is the policy of Northeast Georgia Presbytery, Presbyterian Church (U.S.A.) that all church members, church officers, non-member employees, and volunteers of governing bodies and entities of the Church are to maintain the integrity of the ministerial, employment, professional and volunteer relationships which reflect the high calling of membership in the Church of Jesus Christ. Sexual misconduct is not only a violation of the principles set forth in Scripture, but also of the ministerial employment, professional relationship, and volunteer service expected in the Church, and is never permissible.

B. Purposes

Northeast Georgia Presbytery adopts this policy on sexual misconduct for the use of all governing bodies and entities of the Church under its oversight. Its purposes are as follows:

1. To set and enforce standards of ethical behavior consistent with Scripture and secular law;
2. To provide procedures for inquiry and effective response to allegations of the breach of duty of emotional, spiritual, and physical care and protection of other persons that provide for approximate truth-telling and approximate justice-making;
3. To serve as a guide for the application of powers for governing bodies under the Form of Government and the Rules of Discipline (see *Book of Order*, D-1.0101 and D-2.0101);
4. To recommend personnel policies for the administration of employer/employee relationships within the governing bodies and entities;
5. To serve as a guide for prevention of sexual misconduct;
6. To demonstrate pastoral concern for those who may be the victims of, or accused of, sexual misconduct; and
7. To promote the peace and purity of the Church.

II. Definitions

- A. **Accused** is the term used to represent the person against whom a claim of sexual misconduct is made.
- B. **Accuser** is the term used to represent the person claiming knowledge of sexual misconduct by a person covered by the policy. The accuser may or may not be the victim of alleged sexual misconduct. A person such as a family member, friend or colleague of the alleged victim may be the accuser whose information initiates the inquiry.
- C. **Alleged Victim** is the term used to identify the person said to have been injured by sexual misconduct as defined above.

- D. **Child Sexual Abuse** includes, but is not limited to, any contact or interaction between a child and an adult when the child is being used for the sexual stimulation of the adult person or of a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult is always considered forced, whether or not it was consented to by the child. In the Presbyterian Church (U.S.A.), the sexual abuse definition of a child is anyone under age 18.
- E. **Church**, when spelled with the first letter capitalized, refers to the Presbyterian Church (U.S.A.); when spelled with the first letter in lowercase, refers to local churches. The word "congregation" is used loosely for members and participants.
- F. **Employee** is the comprehensive term used to cover individuals who are hired or called to work for the Church, a governing body, a local member church, or other institutions or entities formally related to the Church or one of its constituent bodies, for salary or other material compensation.
- G. **Entity** is the term used to refer to any congregation, program, or office managed by a board, committee, council or other body whose membership is elected by a governing body. (See "Manual of the General Assembly," Standing Rule E, 1, c.)
- H. **Governing Body** is a representative body composed of elders and ministers of the Word and Sacrament; these are sessions, presbyteries, synods, and the General Assembly. A governing body may establish entities such as day care centers, conference centers, camps, homes for the aged, or other mission entities. A governing body may have both church members and non-members as employees.
- I. **High-risk Occupation** is that which calls for a person to work in close contact: with those who are vulnerable and less capable of protecting themselves; with children, elderly persons, those who are wholly or partially incapacitated; or counseling clients having emotional or personal problems.
- J. **Inquiry** is the term used in the Rules of Discipline to determine whether charges should be filed based upon allegations of an offense received by a governing body (see *Book of Order*, D-10.0101, D-10.0102 and D-10.0103).
- K. **Investigation** is the term generally used by police, secular prosecutors, and child protective services when responding to allegations of an offense, and persons that are to be investigated will be so advised.
- L. **Mandated Reporter** is a person required by state law to report any and all suspected incidents of child abuse, including child sexual abuse, that come to their attention. Under Georgia law, ministers serving in congregations are not mandated reporters. However, ministers serving as professional counselors or marriage and family therapists or as teachers are mandated to report if they have reasonable cause to believe that a child has been abused. (Official Code of Georgia Annotated, Section 19-7-5)
- M. **Persons Covered** by this policy include church members, church officers, ministers, and non-members who are employees or volunteers under the supervision of governing bodies or entities.
- N. **Preponderance of Evidence** is a term from the civil courts related to evidence which implies 51% certainty.

- O. **Reasonable Doubt** is a term from criminal rules of evidence generally considered to be 99% certain.
- P. **Reasonable Suspicion or a Reasonable Cause to Suspect** refers to a belief or opinion based on fact or circumstances that are sufficient for a prudent person to want to inquire further or to take protective action or to report to authorities.
- Q. **Response** is the action taken by the governing body or entity when a report of sexual misconduct is received.

There are two types of groups called upon to respond when any report of sexual misconduct is received, and both types are utilized in every case. Those two types of groups are:

1. **A RESPONSE TEAM:** A Response Team is a body constituted by a governing body or entity to facilitate the process of responding to allegations of sexual misconduct by a person covered by this policy. (The structure and function of the response team are detailed in Section VII of this policy.) The duties of the Response Team may include:
 - a. Pastoral care for alleged victims and their families and others;
 - b. Pastoral care and rehabilitation for the alleged perpetrators, and care for their families.
 2. **AN INVESTIGATING GROUP:**
 - a. **AN INVESTIGATING COMMITTEE:** Response by an Investigating Committee is required by the Rules of Discipline (in the case of a minister member of Presbytery). See *Book of Order*, D-10.0103, D-10.0201, and D-10.0202, which give specific direction regarding the Investigating Committee's work and report
 - b. **A PERSONNEL COMMITTEE:** Disciplinary action will be taken in accord with the personnel policies of the Presbytery (in the case of an employee).
- R. **Secular Authorities** are the governmental bodies, whether city, county, state, or federal, who are given the responsibility to investigate and/or bring civil or criminal charges against individuals accused of sexual crimes or offenses against adults and children.
 - S. **Secular Law** is the body of municipal, state, and federal laws and is often referred to collectively as civil and criminal law. Prohibited behavior addressed by this policy may result in criminal and/or civil charges filed under secular law.

T. Sexual Harassment as defined for this policy is as follows (reflecting Title VII of the Civil Rights Act of 1964): unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or their continued status in an institution;
2. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual;
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or offensive working environment;
4. An individual is subjected to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit men, women, or children.

U. Sexual Misconduct is the comprehensive term used in this policy to include:

1. Child sexual abuse as defined above;
2. Sexual harassment as defined above;
3. Rape or sexual contact by force, threat, or intimidation; and
4. **Sexual Malfeasance.** Sexual malfeasance is defined for this policy as follows: sexual activities within a ministerial relationship or other professional relationship. This definition is not meant to cover relationships between spouses, nor is it meant to restrict church professionals from having mutual, consensual, social, intimate, or marital relationships.

Examples of professional relationships include counselor-client; lay employee-church member; Presbytery executive-committee member. Examples of sexual malfeasance include, but are not limited to: adultery, indecent exposure, sexual congress between male and female, and sexual intercourse between persons of the same sex.

V. Volunteer is the term used for one who provides services for governing bodies and entities of the Church and receives no benefits or remuneration. Volunteers include persons elected or appointed to serve on boards, committees, and other groups. For purposes of this policy, volunteers are treated the same as employees. Expectations of the governing body or entity are the same for volunteers as for employees.

III. Standards of Conduct

The ethical conduct of all who minister in the name of Jesus Christ is of vital importance to the Church because, through these representatives, an understanding of God and of the Gospel's Good News conveyed. Their manner of life should be a demonstration of the Christian gospel in the Church and the world (*Book of Order, G-2.0104 a*).

A. Principles of Conduct

The basic principles guiding this policy are as follows:

1. Sexual misconduct is a violation of the role of pastors, employees, volunteers, counselors, supervisors, teachers, and advisors of any kind who are called upon to exercise integrity, sensitivity, and caring in a trust relationship. The Church has a covenant to act in the best interests of parishioners, clients, co-workers, and students, which is broken when sexual misconduct occurs.
2. Sexual misconduct is a misuse of authority and power which breaches Christian ethical principles by misusing a trust relationship to gain advantage over another for personal pleasure in an abusive, exploitative, and/or unjust manner. If the parishioner, student, client, or employee initiates or invites sexual content in the relationship, it is the pastor's, counselor's, officer's, volunteer's, or supervisor's responsibility to maintain the appropriate role and prohibit a sexual relationship. The person in the higher position of power has the responsibility to maintain his/her role.
3. Sexual misconduct takes advantage of the vulnerability of children and persons who are less powerful and therefore less able to act for their own welfare. It is antithetical to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world. It violates the mandate to protect the vulnerable from harm.
4. See also *Book of Order*, D-10.0401b

B. Victims and Families

The governing body or entity will offer care to, and may advise and aid in securing treatment for, the alleged victims of sexual misconduct and their families through the Pastoral Response Team. It has sometimes been the case that the alleged victim or family is so angry and alienated from the church, that offers of help have been perceived as insincere or attempts at a cover-up. If the alleged victim or family at first refuses, the church should continue to offer help. The church's concern shall not primarily be to protect itself but, rather, to seek truth and justice and to offer care to alleged victims and accused.

The extent of the damage to the alleged victims of sexual misconduct will vary from person to person, influenced by such factors as the degree of severity of abuse, the age and emotional condition of the alleged victim, personality dynamics, and the importance of their religious faith. The governing body, entity, and response team shall assume in all cases in which a person has been determined to have been a victim that the person has been wounded by the experience.

Feelings of guilt, shame, anger, mistrust, lowered self-esteem, unworthiness, and feelings of alienation from God, self, the religious community, and family are frequent injuries suffered by victims. It is important for the response team to be sensitive to the victim's pain and need for healing and to make appropriate pastoral care available.

C. Congregations or Employing Entity

The governing body, employing entity, and Pastoral Response Team should be aware of the problems a congregation or employing entity may experience resulting from allegations of sexual misconduct by a minister, employee, or volunteer. The allegations may polarize the congregation or organization, damage morale, and create serious internal problems. Efforts should be taken to recognize and identify the problems and heal the damage done to the congregation or organization.

D. The Accused

The governing body or entity may offer treatment and care for the accused and the family of the accused, as well as for alleged victims and families, through the Pastoral Response. It is important that the representatives of the governing body or other entities do not make a presumption of guilt or over-react to lurid charges. Wherever possible, an attempt should be made to rehabilitate the accused, if found guilty. Where that is not possible or desirable, reasonable attempts should be made to help them get on with their lives in another area of service in the world. In any case, the accused should continue to receive the love and care of the church.

When a person is cleared of charges, it is important that the governing body or entity, when requested to do so by the accused, communicate the acquittal as fully as it deems appropriate.

E. The Non-Victim Accuser

In many cases the non-victim accuser is the parent, guardian, or other advocate for a child who has been the alleged victim of sexual misconduct. Because of a child's minority status, an adult must file the action on behalf of the child.

In cases where the alleged victim is an adult, the non-victim accuser shall observe the following guidelines:

1. For their own protection, the non-victim accusers should have evidence from the alleged victim detailing the charges;
2. The non-victim accuser should be certain that the alleged victim is willing to come forward to testify, or should have strong evidence from another source; and
3. Some additional evidence of the sexual misconduct may be required to substantiate the charges (e.g., medical test results, motel receipts, proof of repeated telephone calls, etc.) to insure that false, frivolous or unsubstantiated allegations do not subject an innocent accused to lengthy investigation and unwarranted damage to his or her reputation or his or her ability to obtain future employment. Uncovering and correcting sexual misconduct through complaints of victims and non-victim accusers is the goal of this process; therefore those victims and non-victim accusers with legitimate information regarding sexual misconduct are to be supported and encouraged. However, victims or non-victim accusers who file false, frivolous, or unfounded accusations must consider that they may not only be liable for damages to the innocent accused in a civil law suit, but also may be subject to disciplinary action by the governing body of the church.

IV. Risk Management

A. Implementation

The General Assembly urges all governing bodies and related entities, including colleges, universities, and theological institutions to establish policies, procedures, and practices related to sexual misconduct. Governing bodies and entities are to take appropriate steps to inform members, employees, volunteers, and students of the standards of conduct and the procedures for effective response when receiving a report of sexual misconduct, without violating the confidentiality of the pastor/parishioner privilege. Governing bodies are reminded of their duty to cooperate with secular authorities in the investigation and prosecution of violations of law, including, but not limited to, the confidentiality of the pastor/parishioner privilege and prohibition against obstruction of justice.

In part, the structures and procedures for responding to allegations of sexual misconduct are mandated by the *Book of Order* (see D-10.0201, D-10.0202, and D-10.0400). When child sexual abuse or other misconduct that violates criminal laws is alleged (under circumstances that do not prohibit disclosure), the secular authorities will immediately take control of the investigation and disposition of charges against the accused. Governing bodies and entities will cooperate with secular authorities in any secular investigation of sexual misconduct.

Investigation by the governing body may be concurrent and cooperative with investigation by secular authorities. The church has its own disciplinary concerns which are not automatically resolved by a secular court. The governing body or entity has a duty to make its inquiry and enforce disciplinary procedures if warranted when it can be done without interfering with the secular authority or in cases when civil authorities have dropped action in the case.

Response to complaints of sexual misconduct in the course of employment will be governed by this sexual misconduct policy as it is consistent with the *Book of Order*. Allegations may result in charges filed against a church member or minister under the Rules of Discipline and may lead to temporary or permanent removal from office. Allegations against those not governed by the *Book of Order* will be subject to the entity's personnel policy regarding sexual misconduct and may be subject to temporary or permanent removal from employment.

Implementation of this policy will require the presbytery, the churches, and entities within the presbytery to adopt educational programs to prevent sexual misconduct and to provide training in pastoral and disciplinary procedures.

B. Liability and Insurance

A governing body or entity may be held liable for harm caused by sexual misconduct of a minister or employee based upon a number of legal theories such as negligent hiring and supervision. Governing bodies and entities must take such potential liability into consideration when establishing hiring and supervisory practices.

Governing bodies and entities should regularly inform their liability insurance carriers of the activities and programs they operate or sponsor and of the duties and responsibilities of officers, employees, and volunteers. The standard insurance policy must be enhanced by endorsements to cover specific exposures such as camps, day-care operations, shelters, or other outreach programs.

It is also recommended that governing bodies and entities obtain an endorsement to their general liability insurance policy specifically covering sexual abuse and molestation. Such coverage may provide for legal defense expenses and judgments in civil suits brought against the organization, its officers, directors or employees. Ordinarily an insurance company has the duty to defend officers and representatives of an organization. Ordinarily insurance companies do not defend "employees," or cover intentional harm.

C. Employment Practices

1. Record Keeping

Accurate record keeping is an essential part of hiring and supervision practices. Every governing body and entity should maintain a personnel file on every employee, including ministers. The file should contain the application for employment, any employment questionnaires, reference responses, and other documents related to this policy.

2. Pre-screening Applicants

Governing bodies and entities are urged to establish stringent hiring practices. If an applicant is unknown, the employer should confirm the applicant's identity by requiring photographic identification such as a driver's license.

Part of pre-employment screening should include specific questions related to discovering previous complaints of sexual misconduct. Governing bodies and entities should ask persons seeking ministerial calls or employment in non-ordained positions questions such as:

- a. Has a civil, criminal, or ecclesiastical complaint ever been sustained against you alleging sexual misconduct by you?
- b. Have you ever resigned or been terminated from a position after allegations of sexual misconduct were made but not resolved?
- c. If so, indicate the date, nature, and place of these allegations, and the name, address, and telephone number of your employer at the time.
- d. Have you been required to receive professional treatment, physical and/or psychological, for reasons related to sexual misconduct by you? If so, please give a short description of the treatment including place and name, address, and phone number of each and every treating physician or other professional.

(See the Committee on Ministry's Advisory Handbook, Section Four: Appendix F, for a sample employment questionnaire related to this policy. It may be adapted for use by governing bodies and entities or the questions included in this sample may be integrated into a standard employment questionnaire.)

For ministers, appropriate disclosure on Sexual Misconduct Self-Certification Form of Personal Information Form is expected. Ministers being received into membership in Northeast Georgia Presbytery will be also expected to complete release of information for background check for criminal, driving, and credit history.

3. References

The employing governing body or entity is responsible for contacting references for prospective ministers, employees, or volunteers. A written record of the conversations and/or correspondence with references should be kept in the minister's/employee's personnel file.

In dealing with the matter of sexual misconduct in relation to ministers transferring from one position to another, the governing body, careful that no violation of confidentiality occurs, shall assume responsibility for reference checks with previous employers through the synod executive, presbytery executive, or other authorized persons who would report to the Committee on Ministry either that there had been no reported sexual misconduct or that the Committee should inquire into reported sexual misconduct.

The person within the governing body or entity authorized to give a reference is obligated to give truthful information regarding allegations, inquiries, and administrative or disciplinary action related to sexual misconduct of the applicant. The response, however, must be limited to information that is a matter of public record (e.g., presbytery minutes) or in the applicant's own personnel file that is maintained by the governing body or other entity.

If false or misleading information is given or relevant information is withheld, the applicant shall be removed from consideration.

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

D. Distribution

Copies of this policy shall be distributed to all governing body and entity offices and shall be distributed to all employees, and be available to all church members and volunteers. It is intended for use by church members, church officers, employees, and volunteers. The policy shall be made available to persons who accuse others of misconduct, including those who are or claim to be victims of sexual misconduct and their families. The policy shall be distributed to those serving on Investigating Committees, Committees on Ministry, and Response Teams.

Upon receipt of this policy, all clergy, directors of Christian education, youth directors, choir directors, secretaries, Sunday School teachers, commissioned lay pastors, church camp counselors, day care workers, Boy or Girl Scout leaders, and any other paid or volunteer personnel associated with the church should read and sign the accompanying form indicating that they understand the contents and implications of these policies. This acknowledgment shall be kept in the person's personnel file.

E. Volunteers

The policy and guiding principles are intended for volunteers, as well as employees. Often no requirement for screening and application is applied to volunteers. However, the increase of litigation suggests that the presbytery and local churches should improve the screening and supervising of unpaid volunteers. If the volunteer is new or unknown to the church, some informal checking may be wise before allowing the volunteer to work in high-risk positions such as youth advisor, children's workers, lay counselor, Boy or Girl Scout leaders, or camp counselors. In such cases, it is recommended that there be a six-month delay in using volunteers who are new to the church. (A questionnaire similar to that found in the Committee on Ministry's Advisory Handbook, Section Four: Appendix F might be adapted for use with volunteers and kept on file in the church or entity office.)

V. Procedures

The following procedures are intended primarily for use by governing bodies and entities of the Presbyterian Church (U.S.A.). Other groups or organizations affiliated with the Presbyterian Church (U.S.A.) should consider adopting similar procedures for use in sexual misconduct cases.

Reports of sexual misconduct may occur in a large variety of ways. Because a governing body or entity cannot control to whom the accuser of sexual misconduct will first speak, it is important that officers, employees, and persons highly visible to church members and visitors understand how reports of incidents are channeled to the proper persons.

Reports of sexual misconduct should never be taken lightly or disregarded and allowed to circulate without concern for the integrity and reputation of the accuser, the accused, and of the Church. Reports should be dealt with as matters of highest confidentiality, before and after they have been submitted to appropriate authorities as outlined below.

The first person to learn of an incident of sexual misconduct should not undertake an inquiry alone or question either the accuser or the accused, but should advise the accuser to submit a written report to the Stated Clerk. See *Book of Order*, D-10.0101-.0103. If the accuser is hesitant to . . . “submit a written report to the Stated Clerk the person receiving the initial report has a special pastoral responsibility to encourage willingness to speak with higher authority, lest the Church be unable to respond because no one is able to give firsthand information. A member of a governing body receiving information from any source may submit a written statement of the alleged offense to the presbytery executive/stated clerk or the chairperson of the Committee on Ministry. (See *Book of Order*, D-10.0102b)

Upon receipt of a written statement of an alleged offense, the stated clerk of the Presbytery, without undertaking further inquiry, shall then report to the governing body only that an offense has been alleged, without naming the accused or the nature of the alleged offense, and refer the statement immediately to an Investigating Committee (*Book of Order*, D-10.0103) with a copy forwarded to the Moderator of the Pastoral Response Team.

Section VI: Investigative Committee Procedure

Upon receipt of a written statement of an alleged offense, the Stated Clerk of the presbytery, without undertaking further inquiry, shall report to the governing body only that an offense has been alleged without naming the accused or the nature of the alleged offense, and refer the statement immediately to an Investigating Committee.

The Stated Clerk, with the assistance of the Office of Constitutional Services of the General Assembly, will take steps to train a pool of persons to be available to serve as Investigative Committee.

Once an Investigative Committee is convened, it will proceed according the procedures outlined in the *Book of Order*, D-10.0200, 0400.

Section VII: Pastoral Response Team

The Pastoral Response Team is a body of persons elected by Northeast Georgia Presbytery to respond quickly and objectively to reports of sexual misconduct. The Pastoral Response Team shall work with and be available to the accuser, the accused, the alleged victim, the families of both the alleged victim and the accused, the congregation, and the co-workers of the parties involved.

The Pastoral Response Team is accountable to the presbytery and shall be a standing committee composed of nine persons, elected for three year, rotating terms. Members may be re-elected to a second three-year term. It should be composed of persons who will be able to respond skillfully, sensitively, and objectively to situations of alleged sexual misconduct. The presbytery shall specify a moderator for the Pastoral Response Team. The Pastoral Response Team shall be balanced with appropriate representation of men, women, clergy, and lay persons so that the response team by its selection and composition would not be subject to a charge of prejudice or bias.

The moderator or designated other, shall convene three (3) persons from the response team to serve in the specific situation. The response team may request resource persons to serve in specific situations. These persons may have specific experience or training in sexual abuse/misconduct and counseling.

The Pastoral Response Team shall be trained to respond to allegations of sexual misconduct and to recognize and identify the issues involved in sexual misconduct, sexual harassment, and child sexual abuse. Response team members should be familiar with the legal, administrative, and disciplinary procedures of the presbytery as well as the Presbyterian Church (U.S.A.). After the initial training, this team shall meet no less than two (2) times per year for familiarization with the policy, the procedures therein, and for continuing education. Persons completing such training shall be certified by the presbytery.

A. Primary Functions of the Response Team

1. Receive the written report of alleged sexual misconduct from the Stated Clerk;
2. Begin its work as soon as possible but within fourteen (14) days of written notification;
3. Provide for the pastoral care of all involved parties;
4. Provide assistance to begin the healing process within the congregation;
5. Consider the need for, and to make recommendations to any or all parties involved to seek professional psychological counseling;
6. Recommend educational or employment practices to be implemented in a local church, governing body, or entity to prevent possible additional allegations of misconduct;
7. Remind all parties to contact their insurance carriers as indicated;
8. Advise all parties involved, including the presbytery, to obtain other counseling as indicated; and
9. Recuse themselves, if they are involved. (Their role is found in the next section, B.)

B. The Pastoral Response Team Is NOT Intended to Do the Following:

1. To advocate for any involved party;
2. To act as legal counsel for any involved party;
3. To replace the functions of the Committee on Ministry, the presbytery's Council, the Investigating Committee, or the Permanent Judicial Commission;
4. To determine the guilt or innocence of the accused;
5. To enforce a specific disciplinary action; or
6. To act as professional counselor for any involved party.

VIII. Pastoral Care by the Pastoral Response Team

- A. **Specification:** When the accuser claims sexual abuse of a child under the age of eighteen (18) years of age, the response team shall not interview the child or children because of possible secondary trauma caused by the interview itself. Secular authorities should be notified immediately by the response team if a report has not been filed. The response team is to be guided in its actions by the recommendations of secular authorities. If the response team needs a consultant to advise it concerning the effects and complications involving a child victim, it should contact an expert in child sexual abuse. The response team shall make secular authorities aware that it wishes, insofar as the law allows, to be kept informed of the developments of the allegation(s).
- B. **Specification:** Upon receiving written notice of alleged sexual misconduct, the Pastoral Response Team will immediately confer to coordinate the pastoral care process. The Pastoral Response Team shall do the following:
1. Meet separately with the accuser, the alleged victim, and the accused to provide pastoral care;
 2. The Pastoral Response Team, along with the Committee on Ministry Liaison, will meet with the session or other governing bodies to inform its members that allegations have been made and to inform them of the administrative process of a response by presbytery under its policy on sexual misconduct; and
 3. Assess and recommend resources for the following to the appropriate person, group, or committee within the presbytery structure or outside sources:
 - a. Pastoral care and/or professional psychological counseling for the alleged victim and accused, and/or families of both;
 - b. Pastoral care and/or needs of the congregation.

When it is determined during the initial contacts that professional counseling is needed for the alleged victim, the accused, and/or their families, the response team may refer any or all of them to a counselor (ordinarily separate counselors) specifically trained to work with issues of sexual misconduct. The response team should maintain a referral list of counselors and counseling centers which have special expertise in sexual misconduct issues and issues of faith and spiritual needs.

Additionally, the response team and the presbytery must be sensitive to all parties' ability to pay for counseling services. Although the Church is not obligated to pay for such counseling, it may be considered a congregational or presbytery response to a need, in which case a time limit should be placed on such counseling services. (Note the Response Program provided by the Board of Pensions.)

IX. Jurisdiction

A. Accused Covered by the *Book of Order* -- Ministers

Governing body or entity response will vary according to the status of the accused. Church members and ministers are subject to inquiry and discipline under the *Book of Order*, D-3.0101. The pastoral relationship of ministers serving congregations is subject to oversight by the presbytery (*Book of Order G-2.0501*).

Ministers employed by a different presbytery or a synod or General Assembly entity holding ministerial status in presbytery. Response to allegations of sexual misconduct by such ministers will be made by the employing entity under its personnel policies. Such ministers will also be subject to the Rules of Discipline as members of a presbytery.

B. Accused Covered by the *Book of Order* -- Church Members

The session has original jurisdiction in disciplinary cases involving members of the church, each having jurisdiction only over its own members (*Book of Order*, D-3.0101). A church member who is accused of sexual misconduct away from the congregation to which the member belongs may be prosecuted by secular authorities but may only be removed from membership by the session.

When a church member is accused of sexual misconduct, the disciplinary process is the same as that described for ministers and found in Chapters X-XIII of the Rules of Discipline. An Investigating Committee must make an inquiry, decide whether to make charges, and prosecute. The session will sit as a court and try the case (*Book of Order*, D-11.0101 and D-11.0103). The person accused has a right to counsel, to present witnesses, and to cross-examine witnesses. If at any point in the proceedings the accused presents a letter of resignation from the church (effectively "renouncing jurisdiction"), the jurisdiction of the session ends. The session records that the case was closed and the Investigating Committee is dissolved (*Book of Order*, D-3.0106).

C. Accused Renouncing Jurisdiction--Ministers and/or Church Members

If at any time the accused renounces the jurisdiction of the church, then such action will be noted and all reports will be filed with the Stated Clerk.

D. Accused Not Covered by the *Book of Order*

If an allegation of sexual misconduct is made against a person working for an entity of the church, but not subject to the *Book of Order* (see *Book of Order*, G-3.0306), the director of the entity shall immediately submit the report to the Personnel Committee of the entity. The Personnel Committee may, at its discretion, solicit the assistance of presbytery's Response Team. A session, presbytery, or entity that ordinarily functions without a Personnel Committee may appoint an administrative commission for the function described in this section. The Personnel Committee will refer to, and be guided by, the written Personnel Policies of the governing body or entity. Its actions shall include, but are not limited to, the following:

1. Determine whether there is a reasonable suspicion that sexual misconduct may have occurred;
2. If it determines that there is a reasonable suspicion that an offense (violation of policy) may have occurred, it will gather additional information to make a determination;
3. Determine any remedies, including termination of employment;
4. Inform the accuser/alleged victim and the accused of the remedy;
5. If it is determined that an offense (violation of policy) was committed, the Committee shall prepare a written report that shall be included in the personnel file of the accused. The accused shall be given a copy of the report, and shall be allowed to attach to the written report his/her own written statements and/or other documents; and
6. Notify the accuser/alleged victim and the accused that they have the right to appeal the Personnel Committee's decision through the procedures of the entity.

X. Presbytery Response

Actions by the Presbytery General Presbyter and the Stated Clerk shall be guided by the Rules of Discipline of the Presbyterian Church (U.S.A.) constitution, and Presbytery's Sexual Misconduct Policy.

XI. Media Contact

In order to minimize prejudice in any allegation yet to be decided, all inquiries from the media regarding an allegation of sexual misconduct must be directed to the Stated Clerk. The alleged victim, the accuser (if different from the alleged victim), the accused, advocates for the accused or the alleged victim, members of the response team, the church or employing entity, members of presbytery, or any others known to have information about the allegations shall be informed that they are not to address questions from the media other than to refer the media to the Stated clerk or a spokesperson designated by the Stated Clerk.

XII. Governing Body or Entity Record Keeping

The governing body or entity shall keep detailed records of its actions and minutes of its deliberations, including interviews with the accuser, the accused, and other involved parties; copies of reports received from the response team; correspondence related to the case; and copies of the reports from committees or commissions. Such records will be held by the Stated Clerk and marked "confidential." The clerk of the governing body or director of the entity will maintain the records while the inquiry is in progress. After the case has been resolved, the Investigating Committee, or the Personnel Committee will prepare a brief summary report. The report will be included in the accused's permanent personnel file (with the exception of the specification noted below). A copy of the report will be given to the accuser and the accused. The accused will have the right to attach a signed personal statement and/or other documents to the report in the permanent personnel file. Decisions of the permanent judicial commission shall be recorded in presbytery's minutes and shall be included in the accused's permanent personnel file.

Specification: In the case of a sexual misconduct charge involving another adult, when the accused is vindicated of the charge, or the charge has been dropped because it was found to have no substance, the accused's personnel file shall contain no reference to the charge. Neither shall the charge become a part of any reference, by congregational or governing body personnel, for future employment.

XIII. Statute of Limitations

The ability of the presbytery to respond promptly and justly to sexual misconduct is related in part to the opportunity to receive allegations and to gather evidence soon after the occurrence. This Policy, however, recognizes the special problems sometimes related to discovery and recognition of certain forms of sexual misconduct.

For example, child sexual abuse may not be recognized until the victim of abuse reaches the age of awareness or recognition. Awareness or recognition of child sexual abuse, along with the willingness to come forward, may thus be delayed for many years.

In accord with the Rules of Discipline (*Book of Order*, D-10.0401) and the Sexual Misconduct Policy approved by the 1991 General Assembly, Presbyterian Church (U.S.A.), there is no statute of limitations for filing charges alleging sexual abuse (except as noted in Rules of Discipline, *Book of Order*, D-10.0401). However, because of the difficulties in evidence, and awareness of the psychological complications involved in allegations of abuse many years in the past, the presbytery and its committees are advised to move with extreme caution in such cases.

Adopted by Presbytery on February 26, 1994;
Revised by Presbytery on October 28, 1997, October 28, 2003, May 22, 2004, March 2005, and Mach 2012

PRESBYTERIAN CHURCH (U.S.A.) SEXUAL MISCONDUCT POLICY AND ITS PROCEDURES

I. Policy Statement

It is the policy of the Presbyterian Church (U.S.A.) (hereinafter referred to as PC(USA)) that all church members, church officers, non-member employees, and volunteers of congregations, councils, and entities of the church are to maintain the integrity of the ministerial, employment, and professional relationship at all times. Persons who engage in sexual misconduct are in violation of the principles set forth in Scripture, and also of the ministerial, pastoral, employment, and professional relationship. It is never permissible or acceptable for a church member, officer, employee, or volunteer to engage in sexual misconduct.

Distribution

Copies of this policy and its procedures shall be made available to all council and entity offices. It is intended as guidance for churches, mid-councils, and related entities and if properly implemented by them can be used by church members, church officers, employees, and volunteers. This is a policy of the General Assembly of the PC(USA), which governs and protects employees of the General Assembly Mission Council and the Office of the General Assembly. This policy and its procedures should be made available to persons who accuse others of misconduct, including those who are or claim to be victims of sexual misconduct and their families. Other councils of the PC(USA) may use this policy as a guide to develop their own policies and procedures related to sexual misconduct.

II. Standards of Conduct

... As [God] who called you is holy, be
holy yourselves in all your conduct;
... Tend the flock of God that is in your charge, ...
not under compulsion but willingly, ...
not for sordid gain but eagerly. ...
not lord it over those in your charge,
but be examples to the flock.

... You know that we who teach will be judged with greater strictness.

1 Pet. 1:15; 5:2-3; Jas. 3:1, NRSV

The ethical conduct of all who minister in the name of Jesus Christ is of vital importance to the church because through these representatives an understanding of God and the gospel's good news is conveyed. "Their manner of life should be a demonstration of the Christian gospel in the church and in the world" (*Book of Order*, G-2.0104a).

The basic principles of conduct guiding this policy are as follows:

1. Sexual misconduct is a violation of the role of pastors, employees, volunteers, counselors, supervisors, teachers, and advisors of any kind who are called upon to exercise integrity, sensitivity, and caring in a trust relationship. It breaks the covenant to act in the best interests of parishioners, clients, co-workers, and students.
2. Sexual misconduct is a misuse of authority and power that breaches Christian ethical principles by misusing a trust relation to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. If the parishioner, student, client, or employee initiates or invites sexual content in the relationship, it is the pastor's, counselor's, officer's, or supervisor's responsibility to maintain the appropriate role and prohibit a sexual relationship.
3. Sexual misconduct takes advantage of the vulnerability of persons who are less powerful to act for their own welfare, including children. It is antithetical to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world. It violates the mandate to protect the vulnerable from harm.

Definitions

Sexual Misconduct is the comprehensive term used in this policy to include:

Child sexual abuse; including, but is not limited to, any contact or interaction between a child and an adult when the child is being used for the sexual stimulation of the adult person or of a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult is always considered forced whether or not consented to by the child. In the Presbyterian Church (U.S.A.), the sexual abuse definition of a child is anyone under age eighteen.

Sexual abuse as defined in the *Book of Order*: "Sexual abuse of another person is any offense involving sexual conduct in relation to (1) any person under the age of eighteen years or anyone over the age of eighteen years without the mental capacity to consent; or (2) any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position" (*Book of Order*, D-10.0401c).

Sexual harassment; defined for this policy is as follows: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or their continued status in an institution;
- b. submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual;
- c. such conduct has the purpose or effect of unreasonably interfering with an

individual's work performance by creating an intimidating, hostile, or offensive working environment; or

d. an individual is subjected to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit men, women, or children.

Rape or sexual contact by force, threat, or intimidation.

Sexual conduct is offensive, obsessive or suggestive language or behavior, unacceptable visual contact, unwelcome touching or fondling that is injurious to the physical or emotional health of another.

Sexual Malfeasance; is defined by the broken trust resulting from sexual activities within a professional ministerial relationship that results in misuse of office or position arising from the professional ministerial relationship.

Misuse of technology; use of technology that results in sexually harassing or abusing another person, including texting or emailing suggestive messages and images to persons with whom one has a ministerial relationship. It is never appropriate to view pornography on church property. When this includes a person under the age of eighteen, it is considered child abuse. There is never an expectation of personal privacy when using technological equipment owned by a church or church entity or within the context of ministry.

III. Church Response to Allegations of Sexual Misconduct

A. *Principles*

In responding to allegations of sexual misconduct, members, officers, and employees of the church should seek healing and assure the protection of all persons. Where possible, the privacy of persons should be respected and confidentiality of communications should be maintained.

In responding to allegations of sexual misconduct, members, officers, and employees of the church should seek to uphold the dignity of all persons involved, including persons who are alleging harm, persons who are accused of sexual misconduct, and the families and communities of each.

The PC(USA) has jurisdiction over its members, officers, and employees such that if a member, officer, or employee is alleged to have committed an offense against Scripture or the PC(USA) Constitution, the church has the duty to inquire into the allegations and, if the allegations are proven, to correct the behavior of the member, officer, or employee and ensure the safety of others in the community. Allegations of sexual misconduct are always considered allegations of offense against Scripture or the PC(USA) Constitution that trigger the disciplinary processes of the PC(USA) set forth in the *Book of Order*. In the case of an active non-member who is employed or volunteers with the church, the individual will be covered by

the procedures of the written personnel policies of the council or entity.

If the person accused of sexual misconduct is no longer a member, officer, or employee of the PC(USA), but the conduct occurred while the person was acting on behalf of the PC(USA), the church does not have jurisdiction to correct the behavior, but it does have a duty to hear the allegations of offense and to take measures to prevent future occurrences of harm. The council may appoint an administrative committee or commission to hear the allegations of sexual misconduct. The council may also take measures to prevent future occurrences of harm through education and policy.

B. *Reporting Requirements*

1. *Reporting Sexual Misconduct*

A person needing to report that a member, officer, employee, or volunteer of the PC(USA) has committed sexual misconduct is encouraged to seek guidance from a PC(USA) teaching elder or ruling elder regarding filing the report.

Congregation: If the person who is accused of committing sexual misconduct is a member, ruling elder, deacon, volunteer, or employee of a congregation, the report of allegations should be made to the teaching elder, the clerk of session, or the chair of the personnel committee. If the accused is a member or officer of the church, the church will respond by using the procedures set forth in the Rules of Discipline of the *Book of Order*. If the accused is a nonmember employee or volunteer, the church will respond by using procedures set forth by the session of the congregation.

Presbytery: If the person who is accused of committing sexual misconduct is a teaching elder member, the report of allegations should be made to the stated clerk of the presbytery. If the report of allegations is placed in writing, the presbytery will respond by using the procedures set forth in the Rules of Discipline of the *Book of Order*. If the person who is accused of committing sexual misconduct is a volunteer or nonmember employee of the presbytery, the report of allegations may be made to any of the staff or volunteers of the presbytery. The presbytery will respond by using procedures set forth by policy or bylaws of the presbytery.

Higher Council or Entity of the General Assembly: If the person who is accused of committing sexual misconduct is an employee or volunteer of the higher council or entity, contact the council or entity directly for the appropriate person to receive the

report of allegations. The report of allegations may be made to any person with supervising capacity. The entity will respond by using procedures set forth by policy or bylaws of the entity.

2. *Receiving Reports of Sexual Misconduct*

Reports of allegations of sexual misconduct will occur in a variety of ways.

Because a council or entity cannot control to whom the victim of sexual misconduct will speak first, it is important that officers, employees, and persons highly visible to church members and visitors understand how reports of incidents are channeled to the proper person. The allegations may come from persons who have or who do not have a formal relationship with the PC(USA) and may be made to a variety of officers or leaders within the PC(USA). It is the duty of these officers to see that any allegation of sexual misconduct is reported appropriately keeping in mind the mandatory reporting requirements for allegations of child abuse.

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

The first person to learn of an incident of sexual misconduct should not undertake an inquiry alone or question either the victim or the accused unless the incident is divulged in the process of pastoral care, counseling, or a therapy session. If the victim is hesitant to talk to "higher authorities," the person who has received the initial report has a special pastoral responsibility to build trust and willingness to speak with the accuser, lest the church be unable to respond because no one is able to give firsthand information.

The person receiving the initial report of allegations of sexual misconduct shall analyze the relationship of the person accused of sexual misconduct with the PC(USA) and shall make sure that the allegations of offense are filed with the council with jurisdiction over the person accused. This may be done by the person alleging harm or by any member of the PC(USA).

If the report is made orally, the person receiving the report of allegations should request that the person making the report of allegations place it in writing. A report of allegations of sexual misconduct in writing from a member of the PC(USA) alleging another member or officer of the PC(USA) committed an offense must be acted on according to the Rules of Discipline of the *Book of Order*. If a clerk or stated clerk receives a report of allegations in writing from a nonmember of the PC(USA) alleging another member or officer of the PC(USA) committed sexual misconduct, the report also should be acted on according to the Rules of Discipline of the *Book of Order*. If the person who makes the report is unwilling or unable to place it in writing,

any member of the PC(USA) may make the written statement that will automatically trigger the Rules of Discipline of the *Book of Order*.

3. *Mandatory Reporting of Child Abuse*

All ruling elders, deacons, Certified Christian Educators, and teaching elders are required to report knowledge of child abuse to the civil and ecclesiastical authorities according to the *Book of Order*. The *Book of Order* requires that

- “Any member of this church engaged in ordered ministry and any certified Christian educator employed by this church or its congregations, shall report to ecclesiastical and civil legal authorities knowledge of harm, or the risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of a confidential communication as defined in G-4.0301, (2) she or he is not bound by an obligation of privileged communication under law, or (3) she or he reasonably believes that there is risk of future physical harm or abuse” (G-4.0302)

Further

“In the exercise of pastoral care, teaching elders (also called ministers of the Word and Sacrament) and ruling elders who have been commissioned by a presbytery to limited pastoral service (G-2.10), shall maintain a relationship of trust and confidentiality, and shall hold in confidence all information revealed to them in the course of providing care and all information relating to the exercise of such care.

When the person whose confidences are at issue gives express consent to reveal confidential information, then a teaching elder or a ruling elder commissioned to pastoral service may, but cannot be compelled to, reveal confidential information.

A teaching elder or a ruling elder commissioned to pastoral service may reveal confidential information when she or he reasonably believes that there is risk of imminent bodily harm to any person (G-4.0301). All persons covered by this policy have an additional duty to report knowledge of child sexual abuse to the employing entity, supervisor, or council representative. All persons should be informed of and must comply with state and local laws regarding incidents of actual or suspected child sexual abuse. These reports should be made within a reasonable time of receiving the information.

These provisions of the *Book of Order* attempt to balance conflicting moral duties for officers of the Presbyterian Church (U.S.A.).

For teaching elders, the provision strives to balance the duty to protect children from future harm with the duty of a teaching elder to hold in confidence any information revealed to them during the exercise of pastoral care in any ministry setting as defined in G-4.0301 in the *Book of Order*.

For ruling elders, deacons, and certified Christian educators, the provisions strive to balance the duty of an officer of the church to protect children from harm and any secular duty the officer may have to hold in confidence any information revealed as a result of a secular relationship such as attorney/client, counselor/client, or physician/patient. The secular duties will be a function of secular law and may vary from state to state.

C. *Responding*

The appropriate council or entity response will vary according to the relationship of the PC(USA) with the person who is accused of sexual misconduct. Church members and officers are subject to inquiry and discipline (censure and correction) under the *Book of Order*. Non- church member employees and volunteers are subject to oversight and correction by the council or entity that employs them.

1. *Accused Covered by Book of Order*

When an allegation of offense of sexual misconduct has been received by the clerk of session or stated clerk of the presbytery, the clerk of the council will report to the council that an offense has been alleged and that the council will proceed according to the procedures set forth in the Rules of Discipline of the *Book of Order*. The council should appoint an investigating committee to inquire into the allegations. The investigating committee must promptly begin its inquiry into the allegations. Delay may cause further harm to the victim and/or the accused.

Councils and entities must cooperate with civil authorities in an investigation of child sexual abuse or other criminal sexual misconduct. Church disciplinary proceedings cannot interfere with a criminal investigation by civil authorities and may have to be suspended until these are completed.

The session has original jurisdiction in disciplinary cases involving members, ruling elders, and deacons of the church, each congregation having jurisdiction only over its own members.

A presbytery has original jurisdiction in disciplinary cases involving teaching elders. A presbytery may dissolve a pastoral relationship when the "Word imperatively demands it" (G-2.0904). However, a presbytery may only place a teaching elder on administrative leave when allegations of child abuse have been received and the presbytery has followed the *Book of Order* procedures to conduct its risk evaluation to determine whether or not a teaching elder member accused of child abuse should be placed on administrative leave (D-10.0106). It is recommended that the permanent judicial commission (PJC) members who will conduct this risk evaluation based upon the allegations and a hearing should also take into account secular legal advice.

When a church officer renounces jurisdiction, the clerk or stated clerk shall report the renunciation at the next meeting of the council and shall record the renunciation in the minutes of the council. The status of any pending charges may be shared with the council at that time.

2. *Accused Not Covered by Book of Order*

When a council or entity of the General Assembly receives an accusation of offense of sexual misconduct against a nonmember employee or volunteer, the procedural response of the council or entity will be guided by the written personnel policies of the council or entity. Usually the council or entity will have a personnel committee that will be responsible for the

inquiry. If a council does not have a personnel committee, it may appoint either a committee or administrative commission for the review of the allegation.

The committee or commission that will respond to the allegation of offense of sexual misconduct will do the following:

- a. Determine whether or not the allegation gives rise to a reasonable suspicion of sexual misconduct by the accused.
- b. If so, gather additional information necessary to make a decision about correcting the behavior.
- c. Determine any remedies, including limiting ministry, suspension, or termination necessary and advisable under the circumstances. If the accused is a member of another denomination, that denomination will be notified of the allegations and the response.
- d. Inform the victim and the accused of the remedy.
- e. In all cases, the personnel committee shall prepare a written report, which shall be included in the accused's permanent personnel file. The accused shall be allowed to attach any written statements to said documents, also for permanent inclusion in the permanent file.

All procedures shall follow the guidelines set forth by the council, employing agency, or entity of the General Assembly.

3. *Council or Entity Record Keeping*

The council or entity should keep detailed records of its actions and minutes of its deliberations and its conversations with the accuser, the accused, and other parties involved, correspondence, and copies of the reports received from committees or commissions. Such records will be kept confidential as far as possible. In Case # 208-6, the General Assembly Permanent Judicial Commission (GAPJC) interpreted the Rules of Discipline to say that a council or entity may share the contents of inquiry reports with other councils or entities of the PC(USA) when necessary. The clerk of the council or director of the entity will maintain the records while the inquiry is in process.

IV Prevention and Risk Management

A. *Implementation*

The Book of Order requires that all councils adopt and implement a sexual misconduct policy (G-3.0106). The General Assembly urges all councils and related entities including colleges, universities, and theological institutions to establish policies, procedures, that make it a violation of the employer's work rules to engage in sexual misconduct and that encourage reporting of sexual misconduct. Councils and entities are strongly encouraged to take appropriate steps to inform members, employees, volunteers, and students of the council's sexual misconduct policy and the standards of conduct and

the procedures for effective response when receiving a report of sexual misconduct.

B. Liability and Insurance

A council or entity can be held liable for harm caused by sexual misconduct of an officer, teaching elder or employee based on a number of legal theories. Councils and entities should take such potential liability into consideration when establishing hiring and supervisory practices.

Councils and entities should regularly inform their liability insurance carriers of the activities and programs they operate or sponsor and of the duties and responsibilities of officers, employees, and volunteers. The standard insurance policy should usually be enhanced by endorsements to cover specific exposures such as camps, day-care operations, shelters, or other outreach programs.

It is also recommended that councils and entities obtain an endorsement to their general liability insurance policy specifically covering sexual abuse and molestation. Such coverage may provide for legal defense expenses and judgments in civil suits brought against the council or entity, its officers, directors, or employees.

C. Employment Practices

1. Record Keeping

Accurate record keeping is an essential part of hiring and supervision practices of churches, middle governing, bodies and related entities. Every council and entity should maintain a personnel file on every employee, including teaching elders. The file should contain the application for employment, any employment questionnaires, background checks, references responses, and all other documents related to an employee's employment, except records which may be required, by law, to be kept in separate files.

2. Prescreening Applicants

Councils and entities are urged to establish thorough and consistent hiring practices. If an applicant is unknown to the employer, the employer should confirm the applicant's identity by requiring photographic identification such as a driver's license. The council should perform a background check, including a national criminal background check, on all applicants that may have interaction with children and youth.

Part of pre-employment screening should include specific questions related to discovering previous complaints of sexual misconduct. See Appendix B: Sample Exhibit E.

3. References

The employing council or entity is responsible for contacting references for prospective

teaching elders , employees, or volunteers. A written record of conversations or correspondence with references should be kept in the teaching elder or employee's personnel file. (See Appendix B: Sample Exhibit B for a sample reference form).

A council should delegate responsibility for previous employer reference checks.

The person within the council or entity authorized to give a reference is obligated to give truthful information regarding allegations, inquiries, and administrative or disciplinary action related to sexual misconduct of the applicant.

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

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

V. Educating and Training- Awareness

Since the issue of sexual misconduct has become an ever more present reality, there is an emerging need to educate and train a wide variety of persons. Persons needing this specific education include: teaching elders ; volunteers; officers; nonprofessional and professional staff; ministerial candidates; professionals who will be working with this issue within the denomination; members of the congregation; and council staff including supervisors, employees, and stated clerks.

Education for these persons and groups will be different on a group-by-group basis. A primary requirement for all persons should be common knowledge regarding professional and ministerial boundaries, the General Assembly Sexual Misconduct policy and their own specific council or entity policy.

Theological institutions should include material in their existing curriculum on sexual ethics including the appropriate use of ministerial power, the General Assembly policy and its procedures on sexual misconduct, and other resources. It is further urged that the appropriate presbytery committee(s) include training for inquirers, candidates, newly ordained pastors, and new pastors to their presbyteries regarding sexual misconduct, especially including education on their specific policy and procedures.

Much of a congregation's education currently happens in response to an actual case of sexual misconduct. However, it is recommended that the congregation be as proactive in this area as possible offering education in a variety of settings. There are already numerous resource materials available that could be adapted to a congregation's setting.

Employing entities need to make sure all employees are well acquainted with, understand, and abide by their policy and procedures. Employing entities should offer additional training and resources, such as: a workshop during staff meeting; lunchtime discussion group; articles and books made available; etc.

Any professional (therapists, attorneys, advocates, mediators, arbitrators) used by a council should have access to experts qualified in the field of sexual misconduct if they themselves are not.

Appendix A

Definitions

Accused is the term used to represent the person against whom a claim of sexual misconduct is made.

Accuser is a term used to represent the person claiming knowledge of sexual misconduct by a person covered by this policy. The accuser may or may not have been the victim of the alleged sexual misconduct. A person such as a family member, friend, or colleague may be the accuser.

Church when spelled with the initial capitalized refers to the Presbyterian Church (U.S.A.). Church when spelled with the initial in lowercase refers to local churches. The word congregation is used loosely for members and participants.

Employee is the comprehensive term used to cover individuals who are hired or called to work for the Church for salary or wages.

Entity is the term used to refer to any program or office managed by a board, committee, council, or other body whose membership is elected by a council.

Council is a representative body composed of ruling elders and teaching elders: sessions, presbyteries, synods, and the General Assembly. A council may establish entities such as day-care centers, conference centers, camps, or homes for the aged. A council may have both church members and nonmembers as employees.

Inquiry is the term used in the Rules of Discipline to determine whether charges should be filed based upon allegations of an offense received by a council. See *Book of Order*, D-10.0000.

Mandated Reporter includes a person under the PCUSA constitution who is mandated to report to the civil authorities any reasonably held belief that there will be future harm and is also described by some states' laws as a person who is required to report any and all suspected incidents of child abuse, including child sexual abuse that come to their attention. State laws vary from defining "all persons having knowledge" as mandated reporters to specifying very limited lists of professions whose members are required to report.

Persons Covered by this policy includes church members, church officers, teaching elders, and nonmembers who are employees or volunteers of the General Assembly of the PC(USA). All other councils or entities of the General Assembly are urged to create a sexual misconduct policy using the guidelines set out in this policy.

Response is the action taken by the council or entity when a report of sexual misconduct is received. It may include (1) inquiry into facts and circumstances, (2) possible disciplinary action (administrative or judicial or both), (3) pastoral care for victims and their families and others, and (4) pastoral care and rehabilitation for the accused and care for their families.

Civil Authorities are the governmental bodies, whether city, county, state, or federal, who are given the responsibility to investigate, criminally prosecute, and/or bring civil charges against individuals accused of sexual crimes or offenses against adults and children.

Secular Law is the body of municipal, state, and federal laws and is often referred to collectively as civil and criminal law. Prohibited behavior addressed by this policy may result in criminal and/or civil charges filed under secular law.

Victim is a person claiming to have been harmed and/or abused by a person covered under this policy.

Volunteer is the term used for those who provide services for the General Assembly of the PC(USA). Volunteers include persons elected or appointed to serve on boards, committees, and other groups. For purposes of this policy, volunteers are treated the same as employees.

Appendix B

Employment Procedures-With Forms

Each "Employing Entity" should have already established and implemented entity personnel policies that include employment procedures for the search, selection, and call of entity staff. The employment procedures should spell out the process to be followed during the election of chief administrative officers and other staff, the appointment of exempt and nonexempt staff, and the call of teaching elders, chief administrative officers, and elected staff. These employment procedures should also include candidate/applicant reference checks prior to employment. Employing entity personnel policies should contain a clearly defined grievance process, a periodic performance review process, and a section that prohibits sexual misconduct (including sexual harassment). These provisions should be applicable to all full-time, part-time, temporary, and interim staff. The personnel policies should also provide for confidential communication channels whereby staff members can voice concerns or apprehensions without fear of retribution.

Churchwide and public advertisement of vacant positions as a part of an employing entity's search procedures to fill vacant positions is required of General Assembly entities and related bodies and is recommended as a guideline for councils by the churchwide personnel policies as well as the Churchwide Plan for Equal Employment and Affirmative Action. In support of this policy and its procedures on sexual misconduct, all vacant positions of religious leadership forwarded to publications for advertisement, distributed to units of the church, as well as posted on local bulletin boards will include the following statement:

"The Presbyterian Church (U.S.A.) is an equal opportunity employer. In addition the church has a strong policy opposing sexual harassment or abuse. References and records will be checked during the employment process."

This statement will also be included in all information distributed through the Personnel Referral Services of the Church Vocations Ministry Unit.

The following forms are included in this appendix: Exhibit A, Employee Questionnaire; and Exhibit B, Confidential Employee References. These two forms will be used by General Assembly entities and institutions, and are recommended for use by all other employing units of the church. Exhibit C, a form for Implementing Policy of Sexual Misconduct, is to be used by each employing entity as it distributes its sexual misconduct policy to employees and others. Exhibit D, Report of Suspected Sexual Misconduct, is for gathering basic information to be passed along to the appropriate person or group handling sexual misconduct cases for a unit or other entity.

As required by acceptable personnel procedures, an employee handbook should be written, published, and distributed to each employee of church employing entities. All existing personnel policies and employee handbooks should be updated to include a sexual misconduct policy.

It is advisable to seek legal advice as other councils, related bodies, and entities develop and publish policy and procedures on sexual misconduct using this General Assembly policy as a guide. All forms should be checked for compliance with state laws.

Sample Exhibits and Forms for Implementation
Sample Exhibit A

This is a sample employment questionnaire. In addition to the usual questions one finds on an employment questionnaire, the writing team has added certifications and releases that focus on past incidents of sexual misconduct. All entities are urged to have this or any substitute form they design examined by their legal counsel before using it.

Sample Employment Questionnaire

Name: _____

 Last First Middle

Address: _____

 Street

 City State Zip

Business Phone: _____ Home Phone: _____

Have you ever been known by any other name? _____ Yes _____ No _____

If yes, please provide other name(s): _____

Employment Record (List current and previous employers for the last five years)

Employed by: _____

Address: _____

City, State, Zip: _____

Supervisor: _____ Phone: _____

Supervisor's Title _____

Employed from (month/year) to _____ (month/year) _____

Why did you leave? _____

Employed by: _____

Address: _____

City, State, Zip: _____

Supervisor: _____ Phone: _____

Supervisor's Title _____

Employed from (month/year) to _____ (month/year) _____

Why did you leave? _____

Employed by: _____

Address: _____

City, State, Zip: _____

Supervisor: _____ Phone: _____

Supervisor's Title _____

Employed from (month/year) to _____ (month/year) _____

Why did you leave? _____

I certify that (a) no civil, criminal, ecclesiastical complaint has ever been sustained or is pending against me for sexual misconduct; (b) I have never resigned or been terminated from a position for reasons related to sexual misconduct.

Signature Date

Note: If you are unable to make the above certification you may instead give in the space provided a description of the complaint, termination, or the outcome of the situation and any explanatory comments you care to add.

Release

The information contained in this questionnaire is accurate to the best of my knowledge and may be verified by the employing entity. I hereby authorize (*Name of Employing Entity*) to make any and all contacts necessary to verify my prior employment history, and to inquire concerning any criminal records or any judicial proceedings involving me as a defendant. By means of this release I also authorize any previous employer and any law enforcement agencies or judicial authorities to release any and all requested relevant information to the (*Name of Employing Entity*) _____.

I have read this release and understand fully that the information obtained may be used to deny me employment or any other type of position from the employing entity. I also agree that I wily hold harmless the employing entity or judicial authority from any and all claims, liabilities, and cause of action for the legitimate release or use of any information.

Signature _____

Witness _____

Witness _____

Sample Exhibit B

This is a sample form that may be used to keep a record of all face-to-face or telephone reference checks. Additions that have to do with sexual misconduct or child abuse may be needed by the entity to justify to a court of law that they have done reasonable and prudent screening before hiring a person for a position within that entity.

Confidential Employment Reference

1. Name of applicant: _____

2. Reference or church contacted (if a church, identify both the church and person contacted):

3. Date and time of contact: _____

4. Person contacting the reference or church: _____

5. Method of contact (phone, letter, personal conversation): _____

6. Summary of conversation (summarize the reference's remarks concerning the applicant's fitness and suitability for the position, any convictions for or actions pending related to sexual misconduct, sexual harassment or child abuse): _____

Name _____ Title _____

Signature _____ Date _____

Sample Exhibit C

This is a sample designed to implement the sexual misconduct policy. It is necessary that all employees acknowledge being in receipt of the sexual misconduct policy. The policy provides protection and empowerment for die employee.

Form for Implementing Policy of Sexual Misconduct Acknowledgement of Receipt

I hereby acknowledge that I received on _____ (date), a copy of the "Policy and Its Procedures on Sexual Misconduct of the Presbyterian Church (U.S.A.)" dated that I have read the policy, understand its meaning, and agree to conduct myself in accordance with the policy.

Signature _____

A similar acknowledgement should be signed at the time amendments to the policy are made and distributed.

Sample Exhibit D

This exhibit provides entities with a sample Report of Suspected Sexual Misconduct. It provides space for the names, addresses, and telephone numbers of victims, the accused, possible witnesses, and others involved. It also provides space for a description of the offending behavior as well as other pertinent information. This form or a revision of it should be filed with the appropriate supervisor, office, or administrator of an entity who is required to file this with the constituting authority or its response coordination team (See section on Subsequent Reporting in this policy and its procedures.)

Report of Suspected Sexual Misconduct

Reported by: _____

Name _____

Title _____

Address _____

City, State, and Zip Code _____

Telephone _____

Date of Report: _____

Person suspected of misconduct:

Name _____

Title _____

Address _____

City, State, and Zip Code _____

Telephone _____

Other person(s) involved (witness or victims):

Name _____ Title _____

Age _____ Sex _____

Address _____

City, State, and Zip Code _____

Telephone _____

Report of Suspected Sexual Misconduct

Describe incident(s) of suspected sexual misconduct, including date(s), time(s), and location(s):

Identify eyewitnesses to the incident, including names, addresses, and telephone numbers, where available: _____

Sample Exhibit E

Employment Questions to ask of potential employees:

Councils and entities should ask persons seeking ministerial calls or employment in nonordained positions questions such as:

a. Has a civil, criminal, or ecclesiastical complaint ever been sustained against you involving sexual misconduct by you?

b. Have you ever resigned or been terminated from a position for reasons relating to allegations of sexual misconduct by you?

c. If so, indicate the date, nature and place of these allegations, and the name, address, and telephone number of your employer at that time.

d. Have you been required to receive professional treatment, physical or psychological, for reasons related to sexual misconduct to you?

e. If so, please give a short description of the treatment including the date, nature of treatment, place, and name, address, and telephone number of the treating physician or other professional.

A sample employment questionnaire is attached as Exhibit A for adaptation by councils and entities. The questions included in this sample may be integrated into a standard employment questionnaire along with other necessary questions.

Appendix C Meeting the Needs of All Involved

In cases of sexual misconduct there are needs that have to be met for the good of all persons, groups, and entities. To ensure that the council is ready to meet the variety of needs present, an independent response coordination team may be named. This team will not investigate the allegation or in any way function as an investigating committee for disciplining members or officers, but should confine itself to coordinating a process that will meet the specific needs of victims and their families (if any), the accused and family (if any), employing entities, congregations, and councils:

A. The Needs of the Victim

The council, employing entity, and response coordination team should assure that adequate treatment and care are available for alleged victims of sexual misconduct and their families. Sometimes, the victim or family is so angry and alienated from the church, that offers of help may be perceived as insincere or as attempts of a cover-up. If the victim or family at first refuses, the church should continue to offer help. Above all the church should not act in a self-protective manner by ignoring the victim and their families.

The extent of the damage to the victims of sexual misconduct will vary from person to person, and is influenced by such factors as the degree or severity of abuse, the age and emotional condition of the victim, human dynamics, and the importance of one's religious faith. The council, entity, and response coordination team is to assume in all cases that the victim has been wounded by the experience.

Feelings of guilt, shame, anger, mistrust, lowered self-esteem, unworthiness, and feelings of alienation from God, self, the religious community, and family are frequent injuries suffered by victims. It is important for the response coordination team to be sensitive to the victim's pain and need for healing, and to act by making appropriate pastoral care available.

The following are some of the needs of the victim:

1. To be heard and taken seriously. From the time that the victim is first able to indicate that sexual misconduct has occurred, that person should receive immediate attention and serious consideration from all church representatives.

2. To receive pastoral and therapeutic support. The victim may require spiritual and professional assistance as a result of sexual misconduct. The response coordination team should offer to help arrange for such support from a pastor and therapist, if the victim desires. Discussions with such people would be confidential, privileged conversations.

3. To be informed about church process and progress with regard to the accusation. One member of the response coordination team should be the church contact person for the victim. Frequently, this contact person will give the victim information as to what is happening in the church as a result of the accusation.

4. To receive legal advice. The response coordination team should suggest that the victim might benefit from independent legal advice. (Legitimate claims might be more effectively pursued and flimsy

or false claims discouraged.) If requested, the response coordination team should suggest ways in which independent legal advice can be obtained.

5. To be assured of an advocate of one's own choosing. A victim may need continuing moral support from one individual who is present while the church process deals with the accusation. This advocate may be a relative, friend, or someone suggested by the response coordination team. This advocate could speak for the victim, if necessary.

- To be assured that justice will be pursued. The victim needs to be told by the response coordination team, and shown by the processes of the church, that justice is being pursued through fact-finding, truth-telling, confrontation, and agreement that may include removal or temporary exclusion of the accused from office or adjudication of the complaint.
- To receive healing and reconciliation. In addition to specific forms of restitution mentioned above, the victim needs to receive a sense of healing and reconciliation with all concerned—the self, the family, the church and, ideally, the accused. The response coordination team can help bring this about using the church's processes and resources. While the above are needs of the victim, one recognizes that all of these needs may also not be met through a reasonable handling of a specific case, but may only occur over a lengthier period of time. All of these needs, however, should be taken seriously and compassionately, and the rights of the victim respected.

B. The Needs of the Accused

The council or entity shall offer treatment and care for the accused as well as alleged victims and families. If the accused is a teaching elder, this is the primary responsibility of the presbytery (Book of Order, G-3.0307).

Feelings of guilt, shame, anger, mistrust, lowered self-esteem, depression, unworthiness, and feelings of alienation from God, self, the religious community, and family are often experienced by the accused. In addition, there may be fear of job loss, incarceration, and indignation if an allegation is false.

When a person is found not guilty of charges of sexual misconduct, it is important for the council or entity to see that the decision is disseminated as widely as possible within their power, unless doing so would further injure the person accused.

1. Personal Care

Whether the allegations about the accused are eventually found to be true or not, the accused deserves to be treated with Christian kindness and respect.

The response coordination team may suggest that the accused seek spiritual support or professional counseling. People in staff positions, such as presbytery executives or stated clerks, should not engage in personal counseling of the accused because of their potential involvement in disciplinary process.

2. Economic Security and Care for Family of Accused

When an allegation of sexual misconduct has been made against a teaching elder, the economic security of the accused is directly threatened, along with reputation, career, and family relationships. Again, the presbytery can be of assistance.

The response coordination team may alert the presbytery to the possible spiritual, emotional, and financial needs of the family of the accused and recommend expert resources.

C. The Needs of a Congregation in a Context of Sexual Misconduct

The council, employing entity, and response coordination team should be aware of the problems a congregation or employing entity may experience following allegations of sexual misconduct by a teaching elder, employee, or volunteer. The allegations may polarize the congregation or organization, damage morale, create serious internal problems, and even limit the trust a congregation may place in succeeding pastors. Efforts should be taken to recognize and identify the problems and heal any damage that may be done to the congregation or organization.

When there is sexual misconduct on the part of a teaching elder, non-ordained staff, or volunteer in a particular congregation, a number of needs unique to that congregation will emerge since sexual misconduct impacts congregations in different ways. Therefore, these needs will not necessarily emerge in the same sequence in each situation. Depending on the parties involved in the sexual misconduct, some of the needs may not emerge. In any event, those managing the church's response to the sexual misconduct will want to know that the following needs may emerge:

1. Pastoral Care

Members and staff of the congregation will need pastoral care. If it is the pastor who is involved in the sexual misconduct, care will need to be provided by another member of the ordained staff (if the church is a multiple-staff church) or by a trained interim pastor. If the pastor leaves as a result of sexual misconduct, in extreme cases a trained interim pastor or consultant in sexual misconduct may need to work with the congregation for an extended period of time.

If it is not a pastor who is involved in the sexual misconduct, then the pastor will provide the needed care for the congregation. The pastor, if not previously trained in this specialty area, will need to consult with denominational specialists who will advise him or her how to proceed and any anticipated problems.

2. Information About the Case

Members of the congregation will need opportunities both to receive and give information. If a case of sexual misconduct becomes a matter of public knowledge within a congregation and if a pastor has been found guilty of sexual misconduct, the interim pastor or consultant may hold appropriate meetings with individuals, small groups, or with the whole congregation. Such meetings should provide information about sexual misconduct in general, Presbyterian polity and our judicial process, and how others who may have been victimized may be heard and ministered to. If the offender is not the pastor, then the pastor may perform these functions. At such meetings, one may expect members to vent their feelings. An opportunity for this to happen should be provided. If this venting does not take place, then it may create serious problems for the future of the congregation, for future pastors, and for the governing

body.' Dynamics may differ somewhat in racial ethnic churches, but no empirical studies have yet demonstrated different dynamics.

3. Resource Persons

In light of the above needs, the following are several resource persons whose services would be valuable to a congregation in the context of sexual misconduct: a trained interim pastor, a presbytery representative knowledgeable in polity and the effects of sexual misconduct in the church, a consultant or therapist with knowledge and experience in dealing with sexual misconduct, an attorney who can discuss legal aspects of a case, an insurance agent who can advise the congregation about their exposure to liability or coverage.

It is the responsibility of the council to establish policy and its procedures governing cases of sexual misconduct in that jurisdiction. The PC(USA) policy and its procedures are intended to guide the development of council policy and procedures.

Revised/Approved by COGA, October 2013