

EIGHTY-NINTH STATED MEETING

NORTHEAST GEORGIA PRESBYTERY

FEBRUARY 27, 2016

**SUPPLEMENTAL
HANDBOOK
No. 1**

HELD AT

**OCONEE PRESBYTERIAN CHURCH
WATKINSVILLE, GEORGIA**

ADVISORY OPINION
THE TRUST CLAUSE AND GRACIOUS SEPARATION:
IMPLEMENTING THE TRUST CLAUSE FOR THE UNITY OF THE CHURCH

WHAT IS THE TRUST CLAUSE?

G-4.0203 of the *Book of Order* states:

All property held by or for a particular church, a presbytery, a synod, the General Assembly, or the Presbyterian Church (U.S.A.), whether legal title is lodged in a corporation, a trustee or trustees, or an unincorporated association, and whether the property is used in programs of a particular church or of a more inclusive governing body or retained for the production of income, is held in trust nevertheless for the use and benefit of the Presbyterian Church (U.S.A.)"¹

Presbyterian congregations emerge from the collective gifts of God’s people and often include direct gifts from individuals, other congregations, presbyteries, synods, and the General Assembly. These gifts are not regarded as given for a single generation, but are held in trust for this generation and for future generations to come. Indeed, “the Trust Clause reflects our understanding of the church as a communion of saints across time, with responsibilities both to those who came before and those who will follow. When a congregation seeks to leave the PC(USA), it is breaking what is often a significant historic relationship; it is also departing from a fellowship in which its officers have participated, by whose polity they have pledged to be governed, and with which many members may feel bonds of affection.”² Accordingly, the idea of holding property in trust has long been a part of the Presbyterian theology as well as a practice recognized by the U.S. Supreme Court (*Watson v. Jones*, 80 U.S. (13 Wall.) 679 (1872)).³

HOW DOES CHURCH UNITY RELATE TO THE TRUST CLAUSE?

“There is one Church, for there is one Spirit, one hope, ‘one Lord, one faith, one baptism, one God and Father of all, who is above all and through all and in all’ (Eph. 4:5-6) (F-1.0302(a))

Our polity reflects this theology of unity and oneness and the *Book of Order* reminds us that “unity is God’s gift to the Church in Jesus Christ” and “in Christ the Church is one, it strives to be one.”⁴ Along these lines, the 217th General Assembly (2006) called upon “every member of the Presbyterian Church (U.S.A.) to witness to the church’s visible oneness, to avoid division into separate denominations that obscure our community in Christ, and to live in harmony with other members of this denomination, so that we may with one voice together glorify God in Jesus Christ, by the power of the Holy Spirit; and all sessions, congregations, presbyteries, and synods to renew and strengthen their covenanted partnership with one another and with the General Assembly.”⁵

Further, G-3.0101 reminds us, “the mutual interconnection of the church through its councils is a sign of the unity of the church. Congregations of the Presbyterian Church (U.S.A.), while possessing all the gifts necessary to be the church, are nonetheless not sufficient in themselves to be the church. Rather, they are called to share with others both within and beyond the congregation the task of bearing witness to the Lordship of Jesus Christ in the world. This call to bear witness is the work of all believers. The particular responsibility of the councils of the

church is to nurture, guide, and govern those who witness as part of the Presbyterian Church (U.S.A.) to the end that such witness strengthens the whole church and gives glory to God.”⁶ Furthermore, “the congregation is the basic form of the church, but it is not of itself a sufficient form of the church. Thus congregations are bound together in communion with one another, united in relationships of accountability and responsibility, contributing their strengths to the benefit of the whole, and are called, collectively, the church.”⁷ Accordingly, the church is not a voluntary association of those who share the same opinions and experiences, but is an organic body reflecting unity in diversity and called into existence by God that celebrates and transmits through the ages the name and knowledge of Jesus Christ.⁸ The constitutional provisions under which congregations hold property for the benefit of the Presbyterian Church (U.S.A.) arise out of and reflect our theological conviction that this denomination constitutes one indivisible body, which itself is part of the body of Christ, and which encompasses not only the visible Church today but also the one, holy, catholic, and apostolic Church of our heirs and forbearers (F-1.0302).

HOW DOES MISSION RELATE TO THE TRUST CLAUSE AND CHURCH PROPERTY?

The *Book of Order* in G-4.0201 affirms, “the property of the Presbyterian Church (U.S.A.), of its councils and entities, and of its congregations, is a tool for the accomplishment of the mission of Jesus Christ in the world.”⁹ Each local congregation “is the church engaged in the mission of God in its particular context” with a particular history.¹⁰ For its members, the congregation is the site of baptisms, confirmations, marriages, and celebrations of the resurrection to join the communion of saints. Such significant personal experiences make the local congregation an indelible part of the lives of their members. These shared experiences are what most of us picture when we think of our home congregation.

Yet, we also affirm that the “congregation is the basic form of the church, but it is not of itself a sufficient form of the church” and our polity recognizes that purpose of the trust clause is not only to support the witness and mission of a particular congregations, but also to support the mission and witness of the whole Presbyterian Church (U.S.A.). Indeed, it is “the particular responsibility of the councils of the church is to nurture, guide, and govern those who witness as part of the Presbyterian Church (U.S.A.) to the end that such witness strengthens the whole church and gives glory to God.”¹¹ Along these lines, as a council of the church, the presbytery is responsible for developing “the strategy for the mission of the church in its district”¹² and has the responsibility and power to organize, receive merge, dismiss and dissolve congregations in consultation with their members.¹³ Further, the presbytery has the responsibility to assist congregations in developing mission and participating in the mission of the whole church.¹⁴ Accordingly, it is important for the presbytery to prayerfully discern and consider the mission of the church in its district and of the whole church as it decides whether to dismiss or dissolve a congregation.

WHO HAS THE AUTHORITY TO DISMISS A CONGREGATION?

Presbyteries are responsible for upholding the trust clause and congregations may only be dismissed upon the approval of their presbytery. In accordance with G-4.0207, “the relationship to the Presbyterian Church (U.S.A.) of a particular church can be severed only by constitutional action on the part of the presbytery.”¹⁵ As noted above, the presbytery is responsible for the mission and government of the church throughout its geographical district and has the power

organize, receive merge, dismiss and dissolve congregations in consultation with their members.¹⁶

CAN A CONGREGATION VOTE TO SEEK DISMISSAL? DOES A CONGREGATION HAVE A UNILATERAL RIGHT TO DEPART FROM THE PC(USA)?

No. There is not a unilateral right of a Presbyterian Church (U.S.A.) congregation to depart from the denomination or its presbytery of membership. Withdrawal from the Presbyterian Church (U.S.A.) is not a matter that can be considered at a congregational meeting.¹⁷ No authority is given to a congregation or to session to vote to leave the denomination.¹⁸ While a presbytery may consult with a congregation about dismissal in the form of listening sessions, hearings, or other consultations, these consultations are merely for the benefit of informing the presbytery as it considers a request for dismissal.¹⁹ Along these lines, our church has long recognized that “by giving to presbytery rather than to session or congregation the power to dismiss a church, the constitution of this denomination guarantees a formal meeting of presbytery as the forum in which loyalist minorities of whatever size might press their claims that they were sufficient in numbers and dedication to continue a church in its connectional relationship within this denomination.”²⁰ Further, in seeking to negotiate with a congregation seeking dismissal, presbyteries have an obligation to see that secular litigation is used as a last resort.²¹

Here, it is also important to note that freedom of conscience is limited for teaching elders, ruling elders and deacons under G-2.0105 and does not encompass the calling of congregational meetings to seek dismissal, moving churches to seek dismissal from the denomination or obstructing constitutional governance of the church.²² There may not be any secret acts by the pastors and sessions diminishing a church's connection to the PC(USA). Further, congregations that fail to abide by the principles of Gracious Separation "have breached important responsibilities and duties."²³

DOES A CONGREGATION HAVE TO BE DISMISSED TO ANOTHER REFORMED BODY?

Yes. Dismissal to another reformed body is a requirement through authoritative interpretations of PC(USA) constitutional provisions.²⁴ Through authoritative interpretation the General Assembly held:

Presbyteries may dismiss congregations to other ecclesiastical bodies of this denomination, and to denominations whose organization is conformed to the doctrines and order of the Presbyterian Church (U.S.A.). No congregation may be dismissed to independent status, or to the status of a nondenominational congregation.²⁵

The requirement of dismissal to another reformed body goes back to historical reformed understandings of the importance and need to continue the reformed family as well as our reformed theology. Further, dismissal to "another Reformed body" was also the language used during reunion and is found in the *Book of Order* under the “Articles of Agreement.”²⁶ Accordingly, if the presbytery discerns it should dismiss the congregation to another reformed body, then the Presbytery should dismiss “pending reception into another reformed denomination” so that the congregation does not end up in independent status if another reformed denomination refused to admit the congregation into the denomination.

WHO DETERMINES WHETHER THE RECEIVING BODY IS ANOTHER REFORMED BODY?

“It is the responsibility of the dismissing presbytery to determine whether the receiving body meets these standards, and this responsibility cannot be delegated to any other entity within the presbytery (such as an administrative commission). Thus the General Assembly may not determine in advance whether a particular denomination or its constituent bodies qualify under these standards.”²⁷ In exploring this matter, presbyteries should consider such questions as whether the receiving body is:

- 1) “doctrinally consistent with the essentials of Reformed theology as understood by the presbytery;
- 2) “governed by a polity that is consistent in form and structure with that of the Presbyterian Church (U.S.A);” and
- 3) “of sufficient permanence to offer reasonable assurance that the congregation is not being dismissed to de facto independence.”²⁸

Further, “failure on the part of the presbytery thoroughly to explore and adequately to document its satisfaction in these matters may thus violate, however unintentionally, the spirit of the polity of the Presbyterian Church (U.S.A.)”²⁹

MAY A PRESBYTERY DELEGATE ITS FINAL DECISION TO DISMISS A CONGREGATION TO AN ADMINISTRATIVE COMMISSION?

While a presbytery could delegate dismissal of a congregation to an AC, such a decision is of such missional importance to a presbytery that the entire presbytery would likely wish to discern such a matter together.³⁰

CAN A PRESBYTERY DISMISS ITSELF OR ALL OF ITS CONGREGATIONS?

No. A presbytery cannot release itself, or all of its congregations, for only the General Assembly and the synod working together itself can organize, divide, unite, or combine presbyteries or portions of a presbytery.³¹

WHAT ARE GRACIOUS DISMISSAL POLICIES?

At the direction of the 219th General Assembly (2008), the Stated Clerk of the Presbyterian Church (U.S.A.) sent a resolution to the presbyteries, synods and sessions, “indicating the will of the assembly that presbyteries and synods develop and make available to lower governing bodies and local congregations a process that exercises the responsibility and power ‘to divide, dismiss, or dissolve churches in consultation with their members’ with consistency, pastoral responsibility, accountability, gracious witness, openness, and transparency.”³² Accordingly, Gracious Dismissal Policies may be used by councils to offer clarity and guide their process when discerning whether and how a particular congregation could be dismissed from the PC(USA).

HOW DO GRACIOUS DISMISSAL POLICIES RELATE TO THE TRUST CLAUSE (G-4.0203)?

In the recent GAPJC case, [Tom v. Pby of San Francisco](#), the GAPJC authoritatively interpreted how the Trust Clause found in the *Book of Order* at G-4.0203 interacts with Gracious Dismissal Policies.³³ The GAPJC held that while a presbytery has broad discretionary authority under the *Book of Order* to determine property rights [within the context of determining the mission of Jesus Christ in the world (G-4.0201) and in its district (G-3.0303a) to dismiss a particular congregation within its geographic region (G-3.0301a)], the presbytery must fulfill its fiduciary

duty under the Trust Clause (G-4.0203) to consider the interest of the PC(USA) as a beneficiary of the property.

WHAT MUST BE IN A GRACIOUS DISMISSAL POLICY?

A presbytery has broad discretionary authority to determine the mission of Jesus Christ in its district and may take into account many issues such as the spiritual needs of the congregation and community as well as the Marks, Notes and Great Ends of the Church.³⁴ The presbytery must also consider a congregation's financial position and valuation of property and take into consideration the PC(USA)'s use and benefit of the property in every decision concerning disposition of property. Accordingly, the Gracious Dismissal Policy should include this duty among the procedures listed within the Policy.

MUST A GRACIOUS DISMISSAL POLICY OR IMPLEMENTATION OF A GRACIOUS DISMISSAL POLICY INCLUDE CONSULTATION WITH ANY OF THE GENERAL ASSEMBLY ENTITIES?

No, a presbytery has discretionary authority to determine the mission of Jesus Christ in its district when deciding whether to organize, merge, dismiss or dissolve a congregation.³⁵ This discretionary authority includes the presbytery's consideration of a congregation's financial position and valuation of the property.

MAY A GRACIOUS DISMISSAL POLICY (OR ANY BYLAW OR POLICY OF THE PRESBYTERY) DELINEATE THE CIRCUMSTANCES IN WHICH A PRESBYTERY WILL DISSOLVE, DISMISS OR MERGE A CONGREGATION?

No. Since the presbytery must determine its mission when discerning whether to dissolve, dismiss or merge a congregation, dismissal of a congregation requires that the presbytery make the decision about dismissal in each separate case after careful consideration of all the circumstances.³⁶ A presbytery may not discern ahead of time the circumstances in which a presbytery will dismiss a congregation. "Nowhere is [it] written that the congregation is permitted to make the decision that the presbytery commits itself in advance to confirm."³⁷

MAY A GRACIOUS DISMISSAL POLICY DESCRIBE HOW AND WHEN PROPERTY WILL BE USED AND/OR DISTRIBUTED AMONG CONGREGATIONAL ENTITIES?

No. A presbytery is required to determine its mission, including the use and distribution of real and personal property, after careful consideration of all the circumstances on a case by case basis.³⁸

HOW MUST A GRACIOUS DISMISSAL POLICY BE IMPLEMENTED?

Even if the presbytery's Gracious Dismissal Policy does not include the fiduciary duty under the Trust Clause, the presbytery should ultimately exercise this fiduciary duty before making its decision about dismissal. In [Tom v. Pby of San Francisco](#), the GAPJC stated that this would include exercising due diligence regarding the value of the property of the congregation seeking dismissal which would include doing a financial analysis of the value of the property.³⁹ The presbytery must be informed of this financial analysis before it votes on a dismissal. Providing this information gives the presbytery and congregation the information needed to make an informed decision regarding dismissal of the congregation.

WHAT TYPES OF GRACIOUS DISMISSAL POLICIES WOULD NOT BE CONSTITUTIONAL?

Any Gracious Dismissal Policy that precludes a presbytery from taking into account the Trust Clause fiduciary duty before deciding whether to dismiss a congregation on a case-by-case basis would be unconstitutional. Possible examples of policies that would preclude this analysis on a case-by-case basis are:

1. Policies that only require a percentage vote from the congregation for the presbytery's approval of terms of dismissal including only taking into account the spiritual needs or desires of current membership and not the breaking of the historic relationship of the members who came before.
2. Policies that only require the consideration of per capita and/or mission financial obligations are not sufficient to meet the fiduciary duty under the Trust Clause to consider the interest of the PC(USA) as a beneficiary of property.
3. Policies that require the payment by the congregation of a set percentage of assets prior to approval for dismissal. This would serve to preclude a case-by-case analysis.

WHAT IS THE PRESBYTERY'S ROLE REGARDING RECORDS OF A CONGREGATION SEEKING DISMISSAL?

Presbyteries have a constitutional responsibility to safeguard the historic records of congregations that choose to leave the denomination. According to the *Book of Order*, G-3.0107, ownership of the records of dismissed or dissolved congregations passes to the presbytery, and clerks are charged with the safekeeping of records that must be maintained in perpetuity.⁴⁰ Depositing records with the Presbyterian Historical Society, the official archives of the Presbyterian Church (U.S.A.), is a recommended means of preservation. The Presbyterian Historical Society (PHS) offers stated clerks and administrative commissions several options that may help ease the conflict over records while ensuring that vital materials are preserved by the denomination. The desire of departing congregations to have continued access to records may be a point of contention. By choosing to microfilm the original records and digitize the microfilm, presbyteries, congregations and PHS will all have access to the materials.⁴¹ In sum, PHS provides presbyteries with the capacity to: 1) Place original materials on deposit; 2) Place materials on deposit and microfilm them; 3) Deposit, microfilm and digitize records; or 4) Microfilm, digitize and return the original records to the congregation.⁴²

IS A PRESBYTERY'S DECISION TO DISMISS A CONGREGATION SUBJECT TO REVIEW?

Yes, a presbytery's decision to dismiss a congregation is subject to review and if a presbytery fails to carry out its constitutional responsibilities, the synod may be required to intervene by undertaking review of the presbytery's processes and decisions.⁴³ If the synod finds that the presbytery has not been faithful to its mission, the synod may direct the presbytery to appropriate action.⁴⁴ If a presbytery is unable or unwilling to carry out these constitutional responsibilities, the synod may assume jurisdiction over the presbytery's powers to divide, dismiss or dissolve congregations, identify true church, and hold property in trust for the use and benefit of the Presbyterian Church (U.S.A.).⁴⁵

WHAT ROLE DOES THE TRUST CLAUSE PLAY WITH REGARD TO CONGREGATIONAL LOANS?

The Trust Clause provides important support and safeguards for the low-cost loan programs for

Presbyterian Church (U.S.A.) congregations provided by the Presbyterian Investment and Loan Program, Inc. (PILP) and the General Assembly Mission Council (GAMC). The PILP makes low-cost loans to PC(USA) congregations for new buildings and renovations and without the trust clause, presbyteries would be unlikely to guarantee loans and without guarantees PILP's ability to assist congregations would be significantly impaired.⁴⁶ Most church building projects cannot be financed by congregations from their current receipts and many congregations depend on loans from PILP, the GAMC's Church Loan Program, or commercial lenders to complete these projects. Generally, these loans are secured by first lien mortgages on the property of the borrowing congregation. The property of the congregation provides the collateral for these loans and is a potential source of repayment should the borrowing congregation not be able to repay the loan. In addition to being secured, these loans are guaranteed by the presbytery of jurisdiction of the borrowing congregation. This means the presbytery is responsible to pay back the loan should the borrowing congregation fail to pay. The presbyteries have confidence in guaranteeing these secured loans due in part to the fact that church property is held in trust under G-4.0203. Further, G-4.0204 states:

Whenever property of, or held for, a congregation of the Presbyterian Church (U.S.A.) ceases to be used by that congregation as a congregation of the Presbyterian Church (U.S.A.) in accordance with this Constitution, such property shall be held, used, applied, transferred, or sold as provided by the presbytery.

Under G-4.0204, when a congregation ceases to exist or leaves the denomination, the congregation's property (which includes, but is not limited to, its real property, building, and other assets such as investments) is subject to the control of the presbytery of jurisdiction. The presbytery continues to be responsible for mission of the PC(USA) in the area of the departing congregation, and the presbytery can use the property to implement that mission. If the departing congregation has a secured loan with PILP, guaranteed by the presbytery, the presbytery would have the ability to retain the property or the presbytery could use the property to raise funds to satisfy the presbytery's responsibility under the guaranty. As noted above, a presbytery may discern and give some or all of this property to a departing congregation, but this choice will not result in a release of the obligation to repay the secured loan and/or in the release of the guaranty.

If a congregation has a secured loan with PILP and/or the GAMC and chooses to leave the denomination or is dissolved by a presbytery, the terms of the loan provide that the loan is accelerated and becomes immediately due and payable. The guarantee of the presbytery is not satisfied until the loan is paid in full. Our connectional system and the fact that property owned and used by congregations is held in trust for the PC(USA) allows the national PC(U.S.A.) to assist local congregations by providing low interest mortgages through national entities such as PILP and the Church Loan Program. The assurances and protections given under the trust clause help enable these programs to make loans secured by mortgages of the underlying property which are more financially beneficial for the congregations than traditional loan sources.

In the current economy and in the aftermath of the banking crisis, it has become increasingly difficult for small and mid-size congregations to obtain financing for capital projects from banks. It is often new, young, or struggling congregations that need the resources of the denomination the most and the PILP is able to meet these needs of these and other PC(USA) congregations. Without the current trust clause of the Book of Order, it is important to recognize that

presbyteries would be unlikely to guarantee loans and without guarantees PILP's ability to assist congregations would be significantly impaired.

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¹ G-4.0203

² PJC (2012, 221-03 Tom et. al. vs. Pby of San Francisco)

³ This necessity for adoption of G-4.0203 arose from court decisions that changed the permissible role of courts in determining disputes as to church property. Until a few years before the adoption of G-4.0203, courts determining property disputes sought to determine from the doctrinal documents of a denomination whether the property of local congregations was held in trust for the larger church (this was referred to as the "implied trust" analysis). However, in 1979, the United States Supreme Court found that this type of inquiry into the doctrine of a denomination was an improper intrusion into the First Amendment right to freedom of religion. Accordingly, the courts were required to determine property disputes without seeking to interpret a denomination's doctrine (the so-called neutral principles of law analysis). For Presbyterians, this change in the legal framework the civil courts applied suggested specific reference in property matters in a denomination's constitutional documents was prudent. Section G-4.0203 provides that explicit understanding of the long held Presbyterian understanding. As such, it was not a change in our Presbyterian polity, but rather an attempt to protect the denomination's polity against changes in the permissible framework of legal analysis applied by the civil courts.

⁴ In John 17:20-21, Jesus prayerfully desires unity in the Church saying: ²⁰ "My prayer is not for them alone. I pray also for those who will believe in me through their message, ²¹ that all of them may be one, Father, just as you are in me and I am in you. May they also be in us so that the world may believe that you have sent me. Paul picks up on this theme in Galatians and Ephesians: Galatians 3:28 says "There is neither Jew nor Gentile, neither slave nor free, nor is there male and female, for you are all one in Christ Jesus." Ephesians 4:3, "Make every effort to keep the unity of the Spirit through the bond of peace." Along these same lines, F-1.0301 reminds us that our "church is called to be a community of love, where sin is forgiven, reconciliation is accomplished, and the dividing walls of hostility are torn down."

⁵ Need Source

⁶ G-3.0101

⁷ G-1.0101

⁸ See F-1.02 "Jesus Christ is the Head of the Church;" see also F-1.0403

⁹ G-4.0201

¹⁰ G-1.0101

¹¹ G-3.0101

¹² G-3.0301; G-3.0303(a)

¹³ G-3.0301(a)

¹⁴ G-3.0301(c)

¹⁵ G-4.0207

¹⁶ See G-3.0301; G-3.0303(a)

¹⁷ GA (218th, Item 4-20); see also PJC (*Sundquist v. Heartland*, Remedial Case 219-03, 2008)

¹⁸ See G-1.0503 and G-3.02

¹⁹ *Sundquist v. Heartland*, Remedial Case 219-03

²⁰ See PCUS 1976, 92, *Strong v. Synod of Mid-South*.

²¹ *Sundquist v. Heartland*, Remedial Case 219-03

²² *Sundquist v. Heartland*, Remedial Case 219-03

²³ *Sundquist v. Heartland*, Remedial Case 219-03

²⁴ GA (2008, 14, 15 Item 07-13). For more information on authoritative interpretations see G-3.0501c and G-6.02

²⁵ GA (2008, 14, 15 Item 07-13). Along these lines, The General Assembly Permanent Judicial Commission has found that "[a]n 'independent' or 'congregational' Presbyterian church is an anomaly which runs counter to the notion that we are a 'family' of churches and dismissal must therefore be made to another church within the family group ... The ... presbytery had no constitutional right to dismiss ... the churches to independent status. ... The policy of not allowing members and ministers to be cut loose with no ties indicates the historic Presbyterian policy of

ecclesiastical connectionalism. This policy likewise forbids ... dismissal to independency" (PCUS 1973, pp. 119-121, *Anderson v. Synod of Florida*).

²⁶ See the *Book of Order* Appendix B, Article 13 (page B. 13). The "Articles of Agreement" are cited here for historical purposes and do not carry constitutional authority.

²⁷ GA (2008, 14, 15 Item 07-13).

²⁸ GA (2008, 14, 15 Item 07-13).

²⁹ GA (2008, 14, 15 Item 07-13).

³⁰ *Sundquist v. Heartland*, [Remedial Case 219-03](#); see also (PCUS 1976, 92, *Strong v. Synod of Mid-South*)

³¹ G-3.0502(e)

³² GA (2008, 49, 51, 284, Item 04-28) The 218th General Assembly (2008) of the Presbyterian Church (U.S.A.)

1. Directs the Stated Clerk to send this resolution to the presbyteries, synods, and sessions, indicating the will of the assembly that presbyteries and synods develop and make available to lower governing bodies and local congregations a process that exercises the responsibility and power "to divide, dismiss, or dissolve churches in consultation with their members" (Book of Order, G-11.0103i) with consistency, pastoral responsibility, accountability, gracious witness, openness, and transparency.

2. Believing that trying to exercise this responsibility and power through litigation is deadly to the cause of Christ, impacting the local church, other parts of the Body of Christ and ecumenical relationships, and our witness to Christ in the world around us, [the General Assembly] urges [congregations considering leaving the denomination,] presbyteries[,] and synods to implement a process using the following principles:

- Consistency: The local authority delegated to presbyteries is guided and shaped by our shared faith, service, and witness to Jesus Christ.
- Pastoral Responsibility: The requirement in G-11.0103i to consult with the members of a church seeking dismissal highlights the presbytery's pastoral responsibility, which must not be submerged beneath other responsibilities.
- Accountability: For a governing body, accountability rightly dictates fiduciary and connectional concerns, raising general issues of property (G-8.0000) and specific issues of schism within a congregation (G-8.0600). But, full accountability also requires preeminent concern with "caring for the flock."
- Gracious Witness: It is our belief that Scripture and the Holy Spirit require a gracious witness from us rather than a harsh legalism.
- Openness and Transparency: Early, open communication and transparency about principles and process of dismissal necessarily serve truth, order, and goodness, and work against seeking civil litigation as a solution.

³³ PJC (2014, 221-03, [Tom et al v. Pby of San Francisco](#))

³⁴ See F-1.0302; F-1.0303; F-1.0304.

³⁵ However, in considering each congregation on a case-by-case basis, it is important to recognize that one of the entities of the General Assembly or a synod may have created with the congregation and the presbytery a direct financial interest in the property or assets and thus must be consulted by the presbytery. For example, The Presbyterian Church (U.S.A.) Investment and Loan Program (PILP) regularly extends loans to congregations which are secured by the property and/or guarantee of payment from a presbytery. A presbytery that is considering the dismissal or dissolution of a congregation with a secured or unsecured loan from PILP must, as a part of the presbytery's fiduciary interest under the Trust clause, consult with the Presbyterian Investment and Loan Program. See also Advisory Opinion: Trust Clause and Gracious Separation: Implementing the Trust Clause for the Unity of the Church for a more extensive discussion of this particular duty.

³⁶ GA (Minutes, 1991, Req. 91-24, Part I, p 411).

³⁷ GA (Minutes, 1991, Req. 91-24, Part I, p 411).

³⁸ GA (Minutes, 1991, Req. 91-24, Part I, p 411).

³⁹ PJC (2014, 221-03, [Tom et al v. Pby of San Francisco](#))

⁴⁰ G-3.0107 states, "each council shall keep a full and accurate record of its proceedings. Minutes and all other official records of councils are the property in perpetuity of said councils or their legal successors. When a council ceases to exist, its records shall become the property of the next higher council within whose bounds the lower council was prior to its cessation. The clerk of each council shall make recommendation to that body for the permanent safekeeping of the body's records with the Presbyterian Historical Society or in a temperature and humidity controlled environment of a seminary of the Presbyterian Church (U.S.A.)."

⁴¹ The PHS microfilming program creates archival-quality film at a reduced cost for PC(USA) entities, and if requested, PHS will arrange for the production of a digital edition of the microfilm in PDF or JPEG format at cost.

Presbyteries may opt to pay for microfilming (and digitization) or ask the departing congregations to cover the costs. After the records are microfilmed, stated clerks may decide to place the original records on deposit at PHS or return them to the departing congregation as part of a gracious dismissal agreement.

⁴² For more information about these processes, please contact: Presbyterian Historical Society, 425 Lombard Street, Philadelphia, PA 19147. Phone (215)-627-1852. Email: refdesk@history.pcusa.org or via the web at:

www.history.pcusa.org

⁴³ G-3.0108(a)&(b); *see also* F-3.0206

⁴⁴ G-3.0108(a)(b)&(c)

⁴⁵ *See* G-3.0401(c); G-3.0301(a); G-3.0303(b); G-4.0203 & G-4.0207.

⁴⁶ The funds for PILP loans are generated through the sale of Term Notes, which are debt securities to PC(USA) members and congregations and the sale of Denominational Account receipts (DARs) accounts to mid councils and PC(USA) agencies. The interest paid on these Term Notes and DARs and any redemptions are funded by the interest and principal repayment of the loans to congregations. The PILP relies on the congregation's repayment of principal and interest to be able to pay interest to investors and to repay principal to investors at maturity. The PILP administers the Church Loan Program for the GAMC. The Church Loan Program is a mission program under the responsibility of the GAMC and the principal corporation of the General Assembly, Presbyterian Church (U.S.A.), A Corporation, where endowment funds are also used to make low-cost loans to congregations.

REPORT OF THE COORDINATING TEAM
Dr. Edward Boland, Chair

The Coordinating Team (CT) met on **November 24, 2015** and made the following actions and recommendations:

INFORMATION:

1. The Personnel Committee Chair, Rev. Joyce Rife, reported that a contract with Rev. Hilary Shuford has been extended through June 14, 2016 and that a 2% raise is included. The contract was signed. Joyce also reported that meetings with other presbytery staff have occurred.
2. A search for a Youth Coordinator has been advertised by the Personnel Committee.

ACTIONS:

1. A letter was received from the Hopewell Church requesting dismissal from our denomination. It was moved, seconded and passed by the Coordinating Team to refer this letter to the Committee on Ministry.
2. The Coordinating Team moved, seconded, and passed that \$2,226.90 from the presbytery Global Mission Superfund be made available to the Reid Memorial Presbyterian Church to be used in their Haiti Outreach Medical Ministry in 2016.
3. It was moved, seconded and passed by the Coordinating Team that should there occur a need for Stated Clerk action regarding the Central Church, Rev. K. Travis Adams, currently Moderator and Stated Clerk on January 1, 2016, be appointed Stated Clerk pro tem for purposes of addressing any such Stated Clerk needs during the remainder of 2015.
4. Coordinating Team moved, seconded and passed that since K. Travis Adams will become Stated Clerk on January 1, 2016, that Helen Epps will assume the role of Presbytery's Moderator pro tem on January 1 until the February 27, 2016 Stated Meeting, when she will be installed and that on January 1, Ed Boland from Reid Memorial Church will begin serving as Coordinating Team Chair for 2016.
5. It was moved, seconded and passed that the current registration book of incoming ministers which is titled "The Book of Obligation" be changed to "The Book of Covenant."
6. During the search for a permanent general presbyter, Coordinating Team designated Rev. Travis Adams is designated as the contact person for the Search Committee for any files or records in the presbytery office.
7. It was moved, seconded and passed by the Coordinating Team to approve and adopt "as our own" the PRESBYTERIAN CHURCH (U.S.A.) SEXUAL MISCONDUCT POLICY AND ITS PROCEDURES, adding it to the existing Northeast Georgia Presbytery's Sexual Misconduct Pastoral Response Team – Policies and Procedures, and referring it to the current Sexual Misconduct Pastoral Response Team for input and subsequent report

back to the Coordinating Team. (See PCUSA Sexual Misconduct Policy and Procedures following this report.)

The Coordinating Team (CT) met on **January 26, 2016**. The following actions and recommendations were made:

INFORMATION:

1. Stated Clerk, K. Travis Adams, received a communication from William (Bubba) Gunn that he was resigning from the Committee on Ministry Team. This action will be referred to the Nominating Committee.
2. A new allocation of Ruling Elder and Teaching Elder voting commissioners is being worked on and will be presented to the body before the May Stated Meeting of Presbytery.
3. Gleaning Sessions are being established to reach out to the Presbytery as to how to go forward. Three initial meetings will occur in the Greater Athens, Greater Augusta, and Mountain areas. The results of these sessions will be brought back to the Coordinating Team on March 7.
4. An overnight Coordinating Team Meeting is scheduled for March 7-8, 2016. It is hoped that a new vision statement for presbytery can be prepared and then to be presented at small group sessions throughout the Presbytery. These sessions are for everyone. An overnight Stated Presbytery Meeting in October is being planned, if approved.
5. Joel Tolbert, Chair of Congregational Development, and Holly Shoaf-O’Kula, Chair of Leadership Development are talking together about the roles of their ministry teams and how they can work together to support clergy and congregations.
6. Holly Shoaf-O’Kula, Leadership Development Ministry Team Chair, gave a report on the Leadership Event that will be held on February 6th at First Presbyterian Church in Athens. Information can be found on presbytery’s website. Judy Grieve, PW Moderator, announced that any Presbyterian woman who wants to attend can have their registration fee of \$25 paid by reimbursement by signing their name to a list that will be available at the event.
7. A report was given from the Nominating Committee. Ruling Elder Mary Carlan from Gainesville First has agreed to serve on the Permanent Judicial Commission. The Coordinating Team was consulted regarding this nomination and agreed with this recommendation.
8. Brock Burnett, Treasurer, gave the Budget Report for the presbytery. He announced that Ruling Elder Charles Grant is now the Chair of the Budget Finance Initiative Team (BFIT). He also reported that in 2015 all ministry teams came in under budget and over \$40,000 in excess income was moved to undesignated reserves.
9. Information was received from Sylvia McDonald, Chair of the Committee on Preparation for Ministry. She reported that there are several Inquirers and Candidates, with many more exploring.

ACTIONS:

1. The minutes of the November 24, 2015 CT meeting were presented and approved with corrections.
2. Linda Turner, Administrative Assistant of Northeast Georgia Presbytery, was asked to serve as Recording Clerk, with the same compensation as the previous recording clerk. This motion was moved and approved by the Coordinating Team and will be presented to the February Stated Meeting.
3. A Church Professionals Retreat will be held at Unicoi, April 7-8, 2016. Money from the Connectional events Superfund will be used to support this event. This money may be reimbursed by the Synod Transformation Grant (\$42,000) to be used by December 31, 2017. This motion was approved by Coordinating Team.
4. The Proposed Docket was passed with few changes and will be completed by Travis Adams and Linda Turner.
5. A motion was moved and approved granting Stated Clerk Emeritus status to Rev. Joe Berry, and will be presented to the February Stated Meeting.

RECOMMENDATIONS:

1. That Rev. Joe Berry be given Stated Clerk Emeritus status at this February Stated Meeting.
2. That Linda Turner, Administrative Assistant, serve as Recording Clerk for Northeast Georgia Presbytery, with the same compensation as the previous recording clerk.

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 will 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