

# **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.



Why did you leave? \_\_\_\_\_

Employed by: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Supervisor: \_\_\_\_\_ Phone: \_\_\_\_\_

Supervisor's Title \_\_\_\_\_

Employed from (month/year) to \_\_\_\_\_ (month/year) \_\_\_\_\_

Why did you leave? \_\_\_\_\_

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

\_\_\_\_\_  
Signature Date

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

#### Release

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

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

Signature \_\_\_\_\_

Witness \_\_\_\_\_

Witness \_\_\_\_\_

Sample Exhibit B

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

Confidential Employment Reference

1. Name of applicant: \_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_

3. Date and time of contact: \_\_\_\_\_

4. Person contacting the reference or church: \_\_\_\_\_

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

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

\_\_\_\_\_

Name \_\_\_\_\_ Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

### Sample Exhibit C

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

#### Form for Implementing Policy of Sexual Misconduct Acknowledgement of Receipt

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

Signature \_\_\_\_\_

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

Sample Exhibit D

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

Report of Suspected Sexual Misconduct

Reported by: \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

City, State, and Zip Code \_\_\_\_\_

Telephone \_\_\_\_\_

Date of Report: \_\_\_\_\_

Person suspected of misconduct:

Name \_\_\_\_\_

Title \_\_\_\_\_

Address \_\_\_\_\_

City, State, and Zip Code \_\_\_\_\_

Telephone \_\_\_\_\_

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

Name \_\_\_\_\_ Title \_\_\_\_\_

Age \_\_\_\_\_ Sex \_\_\_\_\_

Address \_\_\_\_\_

City, State, and Zip Code \_\_\_\_\_

Telephone \_\_\_\_\_

Report of Suspected Sexual Misconduct

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

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

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## 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.