

POLICY AND PROCEDURE OF SECOND PRESBYTERIAN CHURCH REGARDING ALLEGATIONS OF SEXUAL MISCONDUCT

The ethical conduct of all persons who minister in the name of Jesus Christ is of vital importance to this Church, because through these representatives an understanding of God and the gospels' good news is conveyed. It is the policy of this Church that all church members, church officers, pastors, ruling elders, employees and volunteers working in, with and for this Church, are to maintain the integrity of the ministerial, employment, and professional relationship. Sexual misconduct is a violation of the employment and professional relationship and is never permissible or acceptable.

PERSONS COVERED

- A. Persons covered by this Policy are all persons employed by or seeking employment with the Church, all volunteers of the Church (while acting on its behalf), Ordained Ministers, Ruling Elders, and other representatives of the Church.
- B. This policy also covers those who are accused of sexual misconduct under the following two circumstances:

1. Where access to the Accuser/alleged Victim by the Accused is related to the Accused performing some form of service to or appointment by a committee, group, council, or board of the Church, and
2. When the behavior of the Accused, though not conducted in a Church related setting, raises questions for the Church regarding the character and effectiveness of the Accused.

SEXUAL MISCONDUCT

Sexual Misconduct, as used in this Policy, includes:

- A. Child Sexual Abuse, as defined in the Appendix;

B. Sexual Harassment, as defined in the Appendix;

C. Rape or sexual contact by force, threat, intimidation, or misuse of power in a trust relationship;

D. Sexual conduct (including, but not limited to, sexual advances, requests for sexual favors, and other kinds of verbal or physical conduct of a sexual nature, such as obscene or suggestive language or behavior, use of church property, computers and other equipment for sexual or pornographic purposes, unacceptable visual contact, touching or fondling) that is unwelcome and/or repeated when the person engaged in the conduct knows or has been informed that the conduct is unwelcome or offensive to the recipient;

E. Sexual conduct within a pastoral (e.g. clergy with a member of the congregation) or professional relationship (e.g. counselor with a client), lay employee with a Church member, officer or representative with a Church member (or other person who may be a lay person, ruling elder, or other position of leadership), including sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature. This definition does not apply to relationships between spouses; and

F. Sexual misconduct as used in the policy is intended to include any conduct which would come within the meaning of "sexual abuse" as used in the Rules of Discipline of the Book of Order of the Presbyterian Church (U.S.A.).

SEXUAL MISCONDUCT RESPONSE PERSON

A. Purpose and Function:

A **sexual misconduct response person** is appointed by this Church as the person to whom reports of allegations of sexual misconduct will be made, and whose function it is to receive and quickly and objectively respond to reports of sexual misconduct by persons

covered by this policy. The response person's first priority will be to seek to provide support for the Accuser/Victim as he/she decides how to resolve the situation, as well as to exhibit appropriate and professional concern for the protection of the rights of the alleged Accused. It is not intended that the response person will offer medical, psychological or legal advice as to either secular or church law, and the sexual misconduct response person is in no way to serve as, or as a substitute for, legal counsel for any person. The sexual misconduct response person will neither initiate disciplinary proceedings nor be available to testify in disciplinary proceedings arising from an accusation of sexual misconduct.

B. Sexual Misconduct Response Person:

This Church's primary sexual misconduct response person is

_____ [the Senior Pastor] _____.

If the primary sexual misconduct response person is not reasonably available at the time that an allegation of sexual misconduct arises, or if an allegation is raised against or involves the sexual misconduct response person him or herself, then the following persons, in order, are approved by this church as persons authorized to receive such allegations and serve as the sexual misconduct response person:

The _____ [Chair of the Personnel Committee] _____,

The _____ [Clerk of Session] _____.

The sexual misconduct response person[s] shall be fully familiar with this policy.

NEEDS OF THOSE INVOLVED

A. Victims and Families

The sexual misconduct response person shall endeavor to assure that adequate treatment and care are available to the Victims of alleged sexual misconduct, and their families.

B. The Accused:

The sexual misconduct response person shall be mindful that any Accused is to be presumed innocent until an investigation shows otherwise.

RESPONSE PROCEDURES

A. Response to Reports of Sexual Misconduct:

Any person with a complaint or report of sexual misconduct or a question involving this policy may contact the sexual misconduct response person at the address of this Church. Reports of sexual misconduct will never be taken lightly or disregarded. Because information or rumors relating to such reports may affect the integrity and reputation of the Accuser, the Accused, the Victim, and the Church, reports of sexual misconduct should remain highly confidential both before and after they have been submitted to the appropriate authorities.

1. Notifying those with a Need to Know:

If an allegation is received by the sexual misconduct response person, that person will at a minimum ensure that the following Church-related persons are aware of the allegation having been raised:

The Senior Pastor, the Clerk of Session, the church's insurance carrier, and the Church's legal counsel, if any.

2. Subsequent Response:

Once the sexual misconduct response person is made aware of a sexual misconduct complaint, a review will begin promptly. The sexual misconduct response person will contact the alleged Victim/Accuser and offer support on behalf of the Church. The sexual misconduct response person's task is to explore options available to him/her within the Church for dealing with what has happened. The decision for future action rests with the alleged Victim/Accuser. The goal of the sexual misconduct response person familiar with the Church's Policy and Procedures on Sexual Misconduct will be to provide accurate information, so that the alleged Victim/Accuser can make an educated decision. The alleged Victim/Accuser may or may not choose to pursue further help. Based upon information received from the alleged Victim/Accuser the sexual misconduct response person may recommend that the alleged Victim/Accuser seek consultation with a professional (e.g., medical, legal). If such a recommendation is made, appropriate referrals could be provided if available. If the Accuser is not the Victim, the sexual misconduct response person will encourage the Accuser to tell the alleged Victim about services available through the Church. The Accuser will also inform the alleged Victim of the Accuser's intent to bring accusations to the attention of the sexual misconduct response person, and the Accuser will inform the sexual misconduct response person as to whether the Victim objects to the making of such accusations. In some cases, the alleged Victim/Accuser may ask the sexual misconduct response person to contact the Accused. Before doing so, the sexual misconduct response person should have received a signed and dated authorization for release of information. The alleged Accuser/Victim shall decide whether or not to file disciplinary charges under the Rules of Discipline. Should the Accuser decide to file charges, and if the alleged Accused is an ordained

minister, the alleged Accuser/Victim will be informed by the sexual misconduct response person how to contact the Stated Clerk of the Presbytery to initiate such a process. The sexual misconduct response person's continued involvement at this point will be determined by the needs of the Accuser for continued support.

3. Reporting Child Sexual Abuse or Rape:

The sexual misconduct response person must be familiar with ecclesiastical and state law regarding the reporting of Child Sexual Abuse. If the sexual misconduct response person suspects that Child Sexual Abuse has occurred, the sexual misconduct response person will help the Victim/Accuser understand and comply with state laws regarding incidents of actual or suspected Child abuse and the reporting of such incidents. The sexual misconduct response person will advise the Victim/Accuser to seek legal advice with regards to bringing criminal charges and will report the abuse to the Presbytery for further action consistent with Secular Law. Whether or not the Accuser agrees, the sexual misconduct response person, if a member of the ordered ministries, or a certified Christian educator, is subject to and will comply with all Secular Law with regard to actual or suspected Child or elder sexual abuse, including mandated reporting related to Child Sexual Abuse.

5. Voluntary Leave for Clergy:

For the protection of those involved, the sexual misconduct response person may suggest a voluntary leave for a teaching elder, ruling elder, employee, volunteer and others who may be the subject of an accusation. If the matter involves an ordained minister, the terms of the leave will be worked out between the Presbytery and the session of the church,

with particular attention being paid to the provisions of the Rules of Discipline of the Presbyterian Church (USA) regarding administrative leave in such circumstances.

6. Compliance with Secular Authorities:

The Church shall cooperate with Secular Authorities in their investigations of Child Sexual Abuse or other criminal misconduct. The Church proceedings may have to be suspended until secular investigations are completed.

RISK MANAGEMENT

A. Implementation:

The Church will take appropriate steps to inform its members, employees, staff and volunteers of the standards of conduct and the procedures for effective response to be carried out if a report of sexual misconduct is received. Clergy associated with the church must be aware of how state law regarding clergy confidentiality intersects with state law on child sexual abuse and reporting obligations.

B. Volunteers:

Volunteers acting on behalf of the Church are subject to this policy. An appropriate screening procedure shall be established by the Church before permitting the volunteer to work in *loco parentis* with children, including requiring criminal background checks before such persons are assigned to work with children.

EMPLOYMENT PRACTICES

A. Record Keeping:

The church shall maintain a personnel file containing documents related to this policy for every employee, volunteer, and teaching elders.

B. Pre-screening Applicants:

Regarding Associations with Children - Staff, Ordained Ministers, ruling elders, volunteers, youth leaders, pre-school teachers, and others regularly associated with children and youth of the church shall have submitted to relevant state background checks and clearances before being associated with children and youth. The reports of such clearances shall be maintained by the church for as long as the adult works with the children and youth and for six (6) years thereafter.

APPENDIX I...DEFINITIONS

Accused is the person against whom a claim of sexual misconduct is made.

Accuser is the person claiming knowledge of sexual misconduct by a person covered by this policy. The Accuser may or may not be the Victim of alleged sexual misconduct. A person such as a family member, friend, or colleague of the Victim may be the Accuser whose information initiates an inquiry.

Child is a person under eighteen years of age.

Child Sexual Abuse includes, but is not limited to, any contact or interaction between a Child and an adult when the Child is being used for the sexual stimulation of the adult 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.

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

High Risk Occupation is that which calls for a person to work in close contact with those who are vulnerable and less capable of protecting themselves, such as children, elderly

persons, those who are wholly or partially incapacitated, or clients who are having emotional or personal problems.

Investigation is the term generally used by police, secular prosecutors, and Child Protective Services when responding to allegations of an offense.

Response is the action taken by the Church 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 and professional intervention for Victims, their families, and others involved in congregational and employment settings; (4) pastoral care and professional intervention for congregational and employment settings; and (5) pastoral care for the Accused.

Secular 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 as sexual crimes or offenses.

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

Sexual Harassment, in this policy, means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: 1) submission to such conduct is made either explicitly or implicitly a term or a condition of an individual's employment or volunteer service; 2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or 3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile or offensive working

environment Victim is the term used to identify the person alleged to have been injured by sexual misconduct.

Volunteer is the term used for those who provide services for the Church and receive no benefits or remuneration. Volunteers include persons elected or appointed to serve on boards, committees and other groups. For purposes of this policy, volunteers are treated the same as employees. Liabilities of the governing body or entity are the same for volunteers as for employees.