

Guiding Principles

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

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

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

I. Policy Statement and Purposes

A. Policy Statement

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

Those covered by this policy include the following who stand in direct relationship to the Presbytery: Ministers, Christian Educators, Youth Directors, and Seminary Students, as well as church members, church officers, and nonmembers who serve as employees or volunteers under the supervision of the Presbytery or with church entities.

Individual congregations are not covered by this policy; however churches within the Presbytery are encouraged to adopt and implement their own sexual misconduct policies.

B. Purposes

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

1. To set and enforce standards of ethical behavior consistent with Scripture and secular law;
2. To provide procedures for inquiry and effective response to allegations of the breach of duty of emotional, spiritual, and physical care and protection of other persons;
3. To serve as a guide for the application of powers for governing bodies under the Form of Government and the Rules of Discipline (see Book of Order, D-I .0101 and D-2.0101);

4. To recommend personnel policies for the administration of employer/employee relationships within the governing bodies and entities;
5. To serve as a guide for prevention of sexual misconduct;
6. To demonstrate pastoral concern for those who may be the victims of, or accused of, sexual misconduct;
7. To promote the peace and purity of the Church.

II. Definitions

- A. **Accusation** is a statement or claim that an offense may have occurred. It must be put into writing by the alleged victim or accuser for it to be acted upon.
- B. **Accused** is the term used to represent the person against whom a claim of sexual misconduct is made.
- C. **Accuser** is the term used to represent the person claiming knowledge of sexual misconduct by a person covered by the policy. The accuser may or may not be the victim of alleged sexual misconduct. A person such as a family member, friend or colleague of the alleged victim may be the accuser whose information initiates the inquiry.
- D. **Child Sexual Abuse** includes, but is not limited to, any contact or interaction between a child and an adult when the child is being used for the sexual stimulation of the adult person or of a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult is always considered forced whether or not consented to by the child. In the Presbyterian Church (USA), the sexual abuse definition of a child is anyone under age 18.
- E. **Church**, when spelled with the first letter capitalized, refers to the Presbyterian Church (USA); when spelled with the first letter in lowercase, refers to local churches. The word "congregation" is used loosely for members and participants.
- F. **Employee** is the comprehensive term used to cover individuals who are hired or called to work for the Church, governing body, a local member church, or other institutions or entities formally related to the Church or one of its constituent bodies, for salary or other material compensation.
- G. **Entity** is the term used to refer to any congregation, program, or office managed by a board, committee, council or other body whose membership is elected by a governing body. (See "Manual of the General Assembly," Standing Rule E, I, c.)
- H. **Governing Body** is a representative body composed of elders and ministers of the Word and Sacrament; these are sessions, presbyteries, synods, and the General Assembly. A governing body may establish entities such as day care centers, conference centers, camps, homes for the aged, or other mission entities. A governing body may have both church members and non-members as employees.

- I. **High-risk Occupation** is that which calls for a person to work in close contact: with those who are vulnerable and less capable of protecting themselves; with children, elderly persons, those who are wholly or partially incapacitated; or counseling clients having emotional or personal problems.
- J. **Inquiry** is the term used in the Rules of Discipline to determine whether charges should be filed based upon allegations of an offense received by a governing body (see Book of Order, D-10.0101, D-10.0102 and D-10.0103).
- K. **Investigation** is the term generally used by police, secular prosecutors, and child protective services when responding to allegations of an offense, and persons that are to be investigated will be so advised.
- L. **Mandated Reporter** is a person required by state law to report any and all suspected incidents of child abuse, including child sexual abuse, that come to their attention.
- M. **Minister or Pastor** refers to one who is ordained to specific pastoral ministry within a congregation or to specialized ministry. This also refers to lay pastors.
- N. **Persons Covered** by this policy include church members, church officers, ministers, and non-members who are employees or volunteers under the supervision of governing bodies or entities.
- O. **Professional staff** describes those staff members who lead programmatic ministries for congregations or Presbyteries but are not ordained pastors. Such people include church musicians, DCE's, Youth Directors, Staff at Presbytery, etc.
- P. **Reasonable Suspicion or A Reasonable Cause to Suspect** refers to a belief or opinion based on fact or circumstances that are sufficient for a prudent person to want to inquire further or to take protective action or to report to authorities.
- Q. **Response** is the action taken by the governing body or entity when a report of sexual misconduct is received.

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

1. A RESPONSE TEAM:

A Response Team is a body constituted by a governing body or entity to facilitate the process of responding to allegations of sexual misconduct by a person covered by this policy. (The structure and function of the Response Team are detailed in Sections VI-VIII of this policy.) The duties of the Response Team may include:

- a. Pastoral care for alleged victims and their families and others;
- b. Pastoral care and rehabilitation for the alleged perpetrators, and care for their families.

2. AN INVESTIGATING GROUP:

- a. AN INVESTIGATING COMMITTEE: Response by an Investigating Committee is required by the Rules of Discipline (in the case of a

minister member of Presbytery). See D-I0.0103-105, D-I0.0201, and D-I0.0202, which give specific direction regarding the Investigating Committee's work and report. This committee determines whether charges should be filed. The IC is appointed by rule of Presbytery as soon as notified by the Stated Clerk that an allegation has been received. The IC shall conduct its investigation in accordance with the Rules of Discipline in the Book of Order. At the beginning of each and every conference with the accused the IC shall inform the person of his/her rights as stated in D-I0.0203. The IC's conclusions will be communicated to all as provided by D-I0.0300-10.0303. If charges are filed, the provisions of D-10.0400 shall be followed, and trial shall proceed in accordance with D-I 1.

- b. A PERSONNEL COMMITTEE: Disciplinary action will be taken in accord with the personnel policies of the Presbytery (in the case of an employee).
- R. **Secular Authorities** are the governmental bodies, whether city, county, state, or federal, who are given the responsibility to investigate and/or bring civil or criminal charges against individuals accused of sexual crimes or offenses against adults and children.
- S. **Secular Law** is the body of municipal, state, and federal laws and is often referred to collectively as civil and criminal law. Prohibited behavior addressed by this policy may result in criminal and/or civil charges filed under secular law.
- T. **Sexual Harassment** as defined for this policy is as follows: unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
- 1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or their continued status in an institution;
 - 2. Submission to or rejection of such conduct is used as the basis for employment decisions affecting such an individual;
 - 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or offensive working environment; or
 - 4. An individual is subjected to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit men, women, or children.
- U. **Sexual Misconduct** is the comprehensive term used in this policy to include:
- 1. Child sexual abuse as defined above;
 - 2. Sexual harassment as defined above;
 - 3. Rape or sexual contact by force, threat, or intimidation;

4. Sexual conduct (such as 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; and
 5. Sexual Malfeasance as defined by the broken trust resulting from sexual activities within a ministerial relationship or other professional relationship.
 6. Sexual abuse of another person is any offense involving sexual conduct in relation to (1) any person under the age of 18 years or anyone over the age of 18 without the mental capacity to consent; or (2) any person when the conduct includes force, threat, coercion, intimidation, or misuse of office or position, (Book of Order, D-10.1401b).
- V. **Volunteer** is the term used for one who provides services for governing bodies and entities of the Church and receives no benefits or remuneration. Volunteers include persons elected or appointed to serve on boards, committees, and other groups. For purposes of this policy, volunteers are treated the same as employees. Expectations of the governing body or entity are the same for volunteers as for employees.

III. Standards of Conduct

The ethical conduct of all who minister in the name of Jesus Christ is of vital importance to the Church because through these representatives is conveyed an understanding of God and the gospels' good news. Their manner of life should be a demonstration of the Christian gospel in the Church and the world (Book of Order, G-6.0106).

A. Principles of Conduct

The basic principles guiding this policy are as follows:

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

B. Victims and Families

The governing body, entity, and response team will attempt to offer care to, and may advise and aid in securing discretionary treatment for, the alleged victims of sexual misconduct and their families. It has sometimes been the case that the alleged victim or family is so angry and alienated from the church, that offers of help have been perceived as insincere or attempts at a cover-up. If the alleged victim or family at first refuses, the church should continue to offer help. The church's concern shall never be to protect itself but, rather, to seek the truth and to offer care to alleged victims and accused.

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

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

C. Congregations or Employing Entity

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

D. The Accused

The governing body or entity may offer treatment and care for the accused and the family of the accused, as well as for alleged victims and families. If the accused is a minister or a certified Director of Christian Education, this is the responsibility of the Committee on Ministry (See Book of Order, G- 11.0501).

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

E. The Non-Victim Accuser

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

In cases where the accuser is a non-Presbyterian, oral notification may be turned into a formal allegation under the Rules of Discipline by any member of the Church.

IV. Risk Management

A. Implementation

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

In part, the structures and procedures for responding to allegations of sexual misconduct are mandated by the Book of Order, such as the roles of the Committee on Ministry and the Investigating Committee (see G11.0502 and D-10.0201, D-10:0202). When child sexual abuse or other misconduct that violates criminal laws is alleged (under circumstances that do not prohibit disclosure), the secular authorities will immediately take control of the investigation and disposition of charges against the accused. Governing bodies and entities will cooperate with secular authorities in any secular investigation of sexual misconduct. Investigation by the governing body may be concurrent and cooperative with investigation by secular authorities. The church has its own disciplinary concerns which are not automatically resolved by a secular court. The governing body or entity has a duty to make its inquiry and enforce disciplinary procedures if warranted.

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

Implementation of this policy will require the Presbytery, the churches, and entities within the Presbytery to adopt educational programs to prevent sexual misconduct and to provide training in pastoral and disciplinary procedures. All pastors, DCEs, and other professional staff of a church or the Presbytery must attend one of the meetings on Sexual Misconduct at least once every three (3) years. (See Appendix 'A'.)

B. Liability and Insurance

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

It is also recommended that governing bodies and entities seek to obtain an endorsement to their general liability insurance policy specifically covering sexual

abuse and molestation. Such coverage may provide for legal defense expenses and judgments in civil suits brought against the organization, its officers, directors or employees.

C. Employment Practices

1. Record Keeping

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

2. Pre-screening Applicants

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

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

- a. Has a civil, criminal, or ecclesiastical complaint ever been sustained against you alleging sexual misconduct by you?
- b. Have you ever resigned or been terminated from a position after allegations of sexual misconduct were made but not resolved?
- c. If so, indicate the date, nature, and place of these allegations, and the name, address, and telephone number of your employer at the time.
- d. Have you been required to receive professional treatment, physical and/or psychological, for reasons related to sexual misconduct by you? If so, please give a short description of the treatment including place and name, address, and phone number of each and every treating physician or other professional.
(A sample employment questionnaire is included as Appendix 'B' of this policy. It may be adapted for use by governing bodies and entities or the questions included in this sample may be integrated into a standard employment questionnaire.)

3. References

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

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

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

D. Distribution

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

Upon receipt of this policy, personnel in high-risk occupations must sign a written acknowledgment of receipt. (See Appendix 'C'.) This acknowledgment shall be kept in the person's personnel file.

E. Volunteers

The policy and guiding principles are intended for volunteers as well as employees. If the volunteer is new or unknown to the church, some informal checking may be wise before allowing the volunteer to work in high-risk positions such as youth advisor, children's workers, lay counselor, Boy or Girl Scout leaders, or camp counselors. In such cases, it is recommended that there be a six month delay in using volunteers who are new to the church.

V. Response Procedures

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

A. Receiving Initial Reports

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

Reports of sexual misconduct should never be taken lightly or disregarded and allowed to circulate without concern for the integrity and reputation of the accuser, the accused, and of the Church. Reports should be dealt with as matters of highest

confidentiality, before and after they have been submitted to appropriate authorities as outlined below.

The first person to learn of an incident of sexual misconduct should not undertake an inquiry alone or question either the accuser or the accused. If the accuser is hesitant to talk to “higher authorities,” the person receiving the initial report has a special pastoral responsibility to encourage willingness to speak with higher authority, lest the Church be unable to respond because no one is able to give firsthand information.

B. Subsequent Reporting

A member of a governing body receiving information from any source shall submit a written statement of the alleged offense to the Stated Clerk. (See D- 10.01 02b)

Upon receipt of a written statement of an alleged offense of a minister member of the Presbytery, the Stated Clerk, without undertaking further inquiry, shall then report to the governing body only that an offense has been alleged, without naming the accused or the nature of the alleged offense, and refer the statement immediately to an investigating committee (D-10.0103).

Upon receipt of a written statement of an alleged offense of a non-minister member of the presbytery, the Stated Clerk shall refer the offense to the appropriate supervisory body in the presbytery.

VI. Sexual Misconduct Response Team

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

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

The moderator or designated other, when notified by the Stated Clerk that a report of alleged sexual misconduct has been received, and after collaboration with the Stated Clerk shall convene three (3) persons from the Response Team to serve in the specific situation. The Response Team may request resource persons to serve in specific situations. These persons may have specific experience or training in sexual abuse/misconduct, counseling, insurance, or legal issues.

The Response Team shall be trained to respond to allegations of sexual misconduct and to recognize and identify the issues involved in sexual misconduct, sexual harassment, and child sexual abuse. Response Team members should be familiar with

the legal, administrative, and disciplinary procedures of the Presbytery as well as the Presbyterian Church (USA). After the initial training, this team shall meet no less than two (2) times per year for familiarization with the policy, the procedures therein, and for continuing education. Persons completing such training shall be certified by the Presbytery.

A. Primary Functions of the Response Team

1. Receive the written report of alleged sexual misconduct from the Stated Clerk;
2. Begin its work as soon as possible but within ten (10) days of written notification;
3. Provide for the pastoral care of all involved parties;
4. Provide assistance to begin the healing after care process within the congregation if necessary;
5. Consider the need for, and to make recommendations to any or all parties involved to seek professional psychological counseling;
6. Recommend educational or employment practices to be implemented in a local church, governing body, or entity to prevent possible additional allegations of misconduct;
7. Remind all parties to contact their insurance carriers as indicated;
8. Advise all parties involved, including the Presbytery, to obtain other counseling as indicated.

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

1. To advocate for any involved party;
2. To act as legal counsel for any involved party;
3. To replace the functions of the Committee on Ministry, Presbytery council, investigating committee, or the permanent judicial commission;
4. To determine the guilt or innocence of the accused;
5. To enforce a specific disciplinary action;
6. To act as professional counselor for any involved party.

VII. Pastoral Care by the Response Team

- A. Specification: When the accuser claims sexual abuse of a child under the age of eighteen (18) years of age, the Response Team shall not interview the child or children because of possible secondary trauma caused by the interview itself. Secular authorities should be notified immediately by the Response Team if a report has not been filed. The Response Team is to be guided in its actions by the recommendations of secular authorities. If the Response Team needs a consultant

to advise it concerning the effects and complications involving a child victim, it should contact an expert in child sexual abuse. The Response Team shall make secular authorities aware that it wishes, insofar as the law allows, to be kept informed of the developments of the allegation(s).

- B. Specification: Upon receiving written notice of alleged sexual misconduct, the Response Team will immediately confer to coordinate the pastoral care process. The Response Team shall do the following:
- 1 Meet separately with the accuser, the alleged victim, and the accused to provide pastoral care;
 2. If needed, the Response Team may accompany the appropriate Presbytery representative in meeting with the session or other governing bodies to inform its members that allegations have been made and to inform them of the administrative process of a response by Presbytery under its policy on sexual misconduct;
 3. Assess and recommend resources for the following to the appropriate person, group, or committee within the Presbytery structure or outside sources:
 - a. Pastoral care and/or professional psychological counseling for the alleged victim and accused, and/or families of both;
 - b. Pastoral care and/or needs of the congregation.

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

Additionally, the Response Team and the Presbytery must be sensitive to all parties' ability to pay for counseling services. Although the Church is not obligated to pay for such counseling, it may be considered a congregational or Presbytery response to a need, in which case a time limit should be placed on such counseling services.

VIII. Jurisdiction

A. Accused Covered by the Book of Order—Ministers

Governing body or entity response will vary according to the status of the accused. Church members and ministers are subject to inquiry and discipline under the Book of Order, D-3.0101. The pastoral relationship of ministers serving

congregations is subject to oversight by the Presbytery (G-14.0601, G-14.0602, G-14.0603).

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

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

The session has original jurisdiction in disciplinary cases involving members of the church, each having jurisdiction only over its own members (Book of Order, D-3.0101). A church member who is accused of sexual misconduct away from the congregation to which the member belongs may be prosecuted by secular authorities. A church member's relationship with a congregation is determined by the session acting under the Rules of Discipline.

When a church member is accused of sexual misconduct, the disciplinary process is the same as that described for ministers and found in Chapters X-XIII of the Rules of Discipline. An investigating committee must make an inquiry, decide whether to make charges, and prosecute. The session will sit as a court and try the case (Book of Order, D-10.0101 and D-10.0103). The person accused has a right to counsel, to present witnesses, and to cross-examine witnesses. If at any point in the proceedings the accused presents a letter of resignation from the church (effectively "renouncing jurisdiction"), the jurisdiction of the session ends. The session records that the case was closed and the investigating committee is dissolved (Book of Order, D-3.0 105).

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

If at any time the accused renounces the jurisdiction of the church, then such action will be noted and all reports, including those of the Response Team and governing body or entity, will be filed with the Stated Clerk.

D. Accused Not Covered by the Book of Order

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

1. Determine whether there is a reasonable suspicion that sexual misconduct may have occurred;
2. If it determines that there is a reasonable suspicion that an offense (violation of policy) may have occurred, it will gather additional information to make a determination;
3. Determine any remedies, including termination of employment;

4. Inform the accuser/alleged victim and the accused of the remedy;
5. If it is determined that an offense (violation of policy) was committed, the committee shall prepare a written report that shall be included in the personnel file of the accused. The accused shall be given a copy of the report, and shall be allowed to attach to the written report his/her own written statements and/or Other documents;
6. Notify the accuser/alleged victim and the accused that they have the right to appeal the personnel committee's decision through the procedures of the entity.

IX. Presbytery Response

Actions by the Stated Clerk and the COM Chair shall be guided by the Rules of Discipline of the Presbyterian Church (USA) Constitution and Presbytery's Sexual Misconduct Policy.

X. Media Contact

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

XI. Statute of Limitations

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

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

In accord with the Rules of Discipline (D-I0.0401) and the Sexual Misconduct Policy approved by the 1993 General Assembly, Presbyterian Church (USA), there is no statute of limitations for filing charges alleging sexual abuse.

XII. Prevention

1. All inquirers, candidates, ministers, CCEs, lay pastors and employees of Presbytery are required to sign a written acknowledgment (see Appendix 'C') indicating that they have received a copy of this Sexual Misconduct Policy. This acknowledgment will be kept on file.
2. All ministers and CCEs seeking new calls within Presbytery shall complete the Personal Information Form currently being distributed by the Call Referral Services of the Presbyterian Church (USA), including Part IV, Sexual Misconduct Information, or its successor form.
3. It is further the policy of Presbytery that all ministers, CCEs, lay employees and volunteer workers of Presbytery complete a background questionnaire. (See Appendix 'B'.)
4. It is further the policy of Presbytery that all candidates, ministers, CCEs and lay employees of Presbytery being considered for call/employment within the bounds of the Presbytery shall sign a Release (see Appendix 'D') authorizing a background check.
5. All minister members, CCEs and professional staff members of Presbytery and churches shall be required to attend training on sexual misconduct as provided by Presbytery.
6. The employing church/organization is responsible for contacting references for prospective ministers and lay employees.
7. Presbytery and all its churches, agencies and committees will adhere to this policy, including its standards, procedures, and practices.
8. This policy shall be distributed to all ministers, lay preachers, employees, volunteers, and entities of Presbytery. The policy shall also be made available to all persons who accuse others of misconduct.

APPENDIX A

Continuing Education on Sexual Misconduct Offered by Presbytery

(Required once every three (3) years for all pastors, DCE's and other professional employees of Presbytery and its churches.)

I have attended a sexual misconduct continuing education event offered by Presbytery in the year 20____.

I will attend a sexual misconduct continuing education event offered by Presbytery in the next three (3) years.

Signature

Date

APPENDIX B

The following question is designed to help the Committee On Ministry make an informed decision concerning your proposed relationship in Presbytery. Answering "yes" will not necessarily disqualify you from being received.

Have you ever been convicted of, or pled guilty or "no contest" to any sexual misconduct involving a minor or adult, including but not limited to child abuse, child molestation, indecent liberties with a child, incest, adultery, sexual harassment, rape, assault, battery, murder, kidnapping, child pornography, sodomy, or sexual contact with a counselee?

Yes _____ No _____ If yes, explain fully on a separate sheet (identify when and where each accusation was made and how each accusation was resolved.)

Signature

Date

APPENDIX D

I hereby authorize The Presbytery of Newark to make any contacts necessary to verify my prior employment history, and to inquire concerning any prior arrest or criminal records or judicial proceedings involving me as a defendant. By means of this release, I also authorize any authorities to release any and all requested information to Presbytery.

I have read this release and understand that the information obtained may be used to deny me employment. I agree that I will hold harmless Presbytery as well as any prior employer, law enforcement authority, or judicial authority from any and all claims, liabilities, and cause of action resulting from the release or the use of this information.

Please print:

Name:
D.O.B.

SSN:

Address:

Other addresses during preceding ten years:

Signature

Date

Notary Signature

My commission expires on

Date