

SEXUAL MISCONDUCT RESPONSE POLICY
Presbytery of Western North Carolina Presbyterian Church (USA)

Revised - Approved by Presbytery of Western North Carolina – January 25, 2014

I. Policy Statement

This policy regarding sexual misconduct is written out of awareness that the Presbyterian Church (USA) has been given a public and spiritual trust. It is the policy of the Presbytery of Western North Carolina ("PWNC") that all presbytery professionals and all presbytery volunteers (as such terms are defined herein), are to maintain at all times the integrity of ministerial, employment, professional and ecclesiastical relationships. Sexual misconduct is a violation of Scripture and human dignity, and is never permissible.

This policy has two purposes: to prevent sexual misconduct and to provide for an appropriate response when misconduct is alleged. This policy offers guidelines to ensure appropriate intervention in any alleged incidence of sexual misconduct, offers care to all parties involved, and provides information to help prevent further instances of abuse. The Church is also aware of the needs of survivors, alleged offenders, congregations, and those in ecclesiastical employment. The Church's concern is for a policy that will assist in healing, and work for justice and restoration for all persons.

Because work in the name of the Church implies a covenant relationship, a privilege and a trust, it is the responsibility of all persons covered by this policy to observe appropriate boundaries in all Church relationships.

II. Definitions

- A. **Accused:** The person against whom an accusation of sexual misconduct is being made.
- B. **Accuser:** 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.
- C. **Presbytery Professional:** Any member of presbytery (ordained minister), commissioned lay pastor, commissioned church worker, Certified Christian Educator, Certified Associate Christian Educator, inquirer or candidate, and any employee of Presbytery, whether or not ordained, or others who are determined to be under presbytery authority.
- D. **Presbytery Volunteer:** Anyone who is not a presbytery professional but who serves or functions on behalf of the presbytery as an officer, a member of the Coordinating Council, a commissioner, actually supervising or participating in a function approved by the Committee on Ministry or the presbytery, as appropriate, or as a member of any other committee or subcommittee set forth in the Standing Rules for the Presbytery of Western North Carolina then in effect.
- E. **Sexual misconduct:** Any of the following activities that occur within the scope of Church activities, or that arise from the alleged perpetrator having a position of authority or power through the Church.
 - 1. **Sexual Abuse:** Any offense involving sexual conduct in relation to:
 - (a) any person under the age of eighteen years or anyone over the age of eighteen years without the mental capacity to consent.
 - (b) any person when the conduct includes force, threat, coercion, intimidation, or misuse of office or position (D-10.0401c).
 - 2. **Breach of Professional Responsibility** occurs when a person in a position of trust engages in a sexual act, has sexual contact, or creates a sexualized environment

with any person to whom he or she owes a professional responsibility. A breach of professional responsibility includes, without limitation, consensual sexual relationships between ministers and laity with whom they have a professional relationship.

3. Sexual Harassment is defined in the Policy by Title VII of the Civil Rights Act of 1964 as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile or offensive work environment.
4. Production, distribution or use of pornography is defined by the General Assembly (1988) of the Presbyterian Church (USA) as follows: Pornography includes any sexually explicit materials (books, magazines, movies, videos, musical lyrics, TV shows, telephone services, internet sites, live sex acts) produced for the purpose of sexual arousal by eroticizing violence, power, humiliation, abuse, dominance, degradation, or mistreatment of any person, male or female, and usually produced for monetary profit. Any sexually explicit material that depicts children is pornography.

III. Prevention

- A. All presbytery professionals and presbytery volunteers shall receive a copy of this policy and sign a written acknowledgment of receipt to be kept on file in the presbytery office. (Exhibit A)
- B. All ordained ministers seeking membership within the PWNC shall make available to the Committee on Ministry the "Sexual Misconduct Self Certification." (Exhibit B)
- C. Referencing
 1. Presbytery staff and Committee on Ministry, as directed by the General Presbyter, will conduct two reference checks from a candidate's two previous presbyteries, if reasonable, on all final candidates for Ministers of the Word and Sacrament positions in PCUSA churches within the Presbytery of Western North Carolina. If the person has not been in two previous presbyteries, two reference checks shall be done from other sources.
 2. For candidates being considered for commissioned lay pastors, Certified Christian Educators, and Certified Associate Christian Educators in churches in this presbytery, two reference checks shall be conducted.
 3. In addition, for Ministers of the Word and Sacrament, commissioned lay pastors, Certified Christian Educators and Certified Associate Christian Educators, criminal background checks, driver license checks, and credit reports shall be secured. Each Pastor Nominating Committee of a church seeking to call Ministers of the Word and Sacrament, Certified Christian Educators, Certified Associate Christian Educators, and/or commissioned lay pastors will be instructed to do complete referencing on candidates for final consideration.
- D. Presbytery professionals, received by this presbytery, and new presbytery volunteers are required within one year of reception to attend a workshop on the issues of sexual misconduct offered by PWNC or another source satisfactory to the Stated Clerk. With respect to presbytery professionals who are ordained ministers, commissioned lay

pastors, commissioned church workers, Certified Christian Educators and Certified Associate Christian Educators, each such individual shall report his or her attendance at the required workshop to the chair of the Committee on Ministry. With respect to employees of the PWNC, each such individual shall report his or her attendance at the required workshop to the chair of the Personnel Committee. With respect to Presbytery Volunteers, each such individual shall report his or her attendance at the required workshop to the chair of the committee or council on which such individual serves.

- E. Beginning January 1, 2014, all persons designated below are required to have an approved three-hour workshop of sexual misconduct sponsored by the WNC Presbytery or equivalent training approved by the Sexual Misconduct Prevention Team.
1. All Presbytery professionals and Presbytery volunteers are required to have the three-hour training every four years with the following exceptions.
 2. Exempted from training are fully retired Presbytery professionals who do not meet criteria for required training as detailed in the ARequest for Exemption Form.® This means that these individuals may not serve on Presbytery committees, may not have appointments in local churches, may not preach or lead workshops and retreats, or otherwise do not meet the criteria. To be exempt, the retired Presbytery professional must apply for exemption, and that request must be approved by the Committee on Ministry.
 3. Members on the following committees, their sub-committees, and Task Forces are ineligible for exemption during the term of their membership:

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|-------------------------------|------------------------|
| Administrative Board | Youth |
| Committee on Ministry | Christian Education |
| Examinations | Joint Outdoor Ministry |
| Small Membership Church | Campus Mission |
| Permanent Judicial Commission | |
 4. Interims who are working within the bounds of the Presbytery who receive comparable hours of training in their judicatory, at least as frequently as required in our Presbytery, may be exempt.
- F. If a presbytery professional is not able to attend a workshop prescribed by Item III of this policy, such professional must obtain written permission from either the chair of the Committee on Ministry (with respect to ordained ministers, commissioned lay pastors, commissioned church workers, Certified Christian Educators and Certified Associate Christian Educators) or the chair of the Personnel Committee (with respect to employees of PWNC) excusing the attendance requirement. If written permission is not obtained, and if failure of attendance at required workshops continues to occur, the COM may place the presbytery professional on unpaid administrative leave and exclude him or her from the exercise of ministry until such time as the workshop is attended, and may be subject to other presbytery action.
- G. Whereas this policy addresses sexual misconduct by presbytery professionals, each governing body is responsible for developing a policy for its own church professionals, officers, members, non-member employees, and volunteers which is consistent with

this document. It is incumbent on each governing body to ensure compliance with its policy.

IV. Reporting

- A. Any presbytery professional or presbytery volunteer who has a reasonable belief that an incident of sexual misconduct has occurred shall make a written report to the Stated Clerk in a timely manner. The written report shall consist of the names of the accused and accuser, together with a brief description of the alleged sexual misconduct along with any available supporting information. Such reporting individual shall not undertake an inquiry or question the persons involved. This is to reduce the possibility of contaminating evidence and to avoid the circulation of rumors. If the Stated Clerk is a party to the incident, such written report shall be rendered to the Moderator of the PWNC. If the Moderator is also a party to the incident, such written report shall be rendered to the following in order of succession: Vice Moderator, Assistant Stated Clerk, Chair of the Coordinating Council, or Chair of the Committee on Ministry.
- B. When child sexual abuse is alleged, the secular authorities must, by law, immediately be contacted to take control of the investigation and disposition of charges against the accused. All persons shall cooperate with the secular authorities in any secular investigation of sexual misconduct.
- C. Within five (5) days of receipt of a written report, the Stated Clerk (or the designated successor actually receiving the written report as provided in section IV. A., above), shall contact the chair of the Coordinating Council and the chair of the Committee on Ministry. After conferring with these authorities to verify that the report includes sufficient information to warrant further action, the chair of the Sexual Misconduct Response Team (SMRT) will be notified in writing.
- D. At such time as the SMRT is notified, the Stated Clerk (or the designated successor actually receiving the written report as provided in section IV. A., above) shall also notify the chair of the Presbytery Permanent Judicial Commission, which commission shall determine whether additional action is required under the Rules of Discipline. The Stated Clerk (or designated successor) shall also provide brief, periodic reports to the chair of the Permanent Judicial Commission on the proceedings.
- E. Even if there is no report, but rumors are so rampant as to adversely affect the peace, purity and unity of the Church, the SMRT will be notified by one of these authorities to begin its work.
- F. The chair of the Coordinating Council, the chair of the Committee on Ministry, and the Stated Clerk shall have no further contact with the accuser, the victim or the accused. But if the procedures in the Rules of Discipline, Book of Order are invoked, the Stated Clerk shall carry out the duties of that office.

V. Response Procedures

- A. The Sexual Misconduct Response Team (SMRT) shall be composed of qualified persons, geographically dispersed throughout the Presbytery. They shall be appointed by the

Committee on Ministry with approval of the Presbytery. The chair of the Committee on Ministry shall appoint the chair and co-chair of the SMRT. The SMRT is not a disciplinary or investigating committee, but rather it is a provider of pastoral care and education regarding this policy.

- B. In the pastoral care provided by the SMRT, there shall be no effort to determine the guilt or innocence of any parties.
- C. The SMRT Chair must immediately, upon notification, designate and notify an assigned Response Team, which must include at least two members, and after conferring with the co-chair, at least half of whom must be of the same sex as the alleged victim.
- D. The assigned Response Team shall offer and arrange for a face-to-face meeting with the alleged victim or accuser within seven days after the notification. At the first meeting with the victim or accuser, the assigned Response Team must inform the victim or accuser of the following:
 - 1. The presbytery's investigative and disciplinary process, and information as to how and where to make a formal complaint if one has not already been made;
 - 2. The assigned Response Team's role, duties and limits;
 - 3. The fact that the assigned Response Team cannot be the representative or advocate for the accuser or victim within the investigative and disciplinary process;
 - 4. The right of the accuser or victim to obtain his or her own legal counsel; and
 - 5. The confidentiality of communications with the assigned Response Team, and the legal limits of such confidentiality.
- E. The assigned Response Team shall provide pastoral care, including but not limited to the making of referrals, seeking of aid and care if needed, and providing comfort. Nonexclusive examples of such pastoral care may include addressing the Committee on Ministry to request funds to pay for counseling; driving the victim to the site of the Investigating Committee meeting; and giving lists of appropriate professionals whose assistance might be available.
- F. In addition, the Stated Clerk, in consultation with the chair of the SMRT, may designate and notify additional assigned Response Teams to work with any of (i) the accused, (ii) a spouse or partner of the victim or accuser, (iii) a spouse or partner of the accused, or (iv) the affected congregation. Each assigned Response Team shall consist of at least two members who shall not be members of any other assigned Response Team involved in the same incident. If the Stated Clerk is a party to the incident, such decision shall be made by the Moderator, Vice Moderator, or Assistant Stated Clerk, as appropriate, in consultation with the chair of the SMRT.
- G. As with the assigned Response Team working with the victim or the accuser, any additional assigned Response Team shall provide pastoral care to the individual or congregation to whom assigned, including, but not limited to, the making of referrals, seeking of aid and care if needed, and providing comfort.

- H. When the parties involved in the alleged misconduct decline the services of SMRT, documentation of contact and response is recorded and filed by the chair of the SMRT.
- I. Whenever confidentiality is required under these rules and procedures, it is expressly understood that members of the SMRT are nonetheless subject to any requirements of the secular law, including particularly any requirements that sexual or physical abuse of children or incapacitated adults be reported to appropriate authorities.

EXHIBIT A to SEXUAL MISCONDUCT RESPONSE POLICY
Presbytery of Western North Carolina Presbyterian Church (USA)

ACKNOWLEDGMENT

TO: All Presbytery Professionals and All Presbytery Volunteers

The Presbytery of Western North Carolina has adopted a "Sexual Misconduct Response Policy" ("Policy") which explicitly prohibits misconduct of a sexual nature by presbytery professionals or presbytery volunteers, as such terms are defined in the policy. This policy of the Presbytery of Western North Carolina applies to all presbytery professionals and presbytery volunteers, as such terms are defined in the policy. It is essential that all who are subject to the policy and its procedures read and understand the policy, acknowledge that they have done so, and formally consent to being bound by the presbytery's discipline in the matter. Please complete the form below and return to the office of the Committee on Ministry.

----- Detach and Return -----

Please initial as appropriate:

_____ I have received a copy of the "Sexual Misconduct Response Policy, " as adopted by the Presbytery of Western North Carolina in April of 2011. I have read it, and I understand it. I acknowledge that the policy and procedures apply to me and that I agree to conduct myself in accordance with them.

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

_____ I am unable to make the above certification. I offer instead a description of the complaint, termination, or the outcome of the situation with explanatory comments. (Attached)

Signature

Date

Printed Name

EXHIBIT B to SEXUAL MISCONDUCT RESPONSE POLICY
Presbytery of Western North Carolina Presbyterian Church (USA)

SEXUAL MISCONDUCT SELF-CERTIFICATION

Please initial as appropriate:

_____ I certify that no civil, criminal or ecclesiastical complaint has been sustained or is pending against me for sexual misconduct; and I have never resigned or been terminated from a position for reasons related to sexual misconduct, nor disciplines for reasons related to sexual misconduct on my part.

If you are unable to make the above certification, you may instead provide a description of the complaint, termination, reason for the discipline or the outcome of the situation with explanatory comments in the space below.

Signature

Date

EXHIBIT C to SEXUAL MISCONDUCT RESPONSE POLICY
Presbytery of Western North Carolina Presbyterian Church (USA)

RELEASE

The information set forth by me in documents similar in form to Exhibits A and B of this policy are accurate to the best of my knowledge and may be verified by the employing entity. I hereby authorize the Presbytery of Western North Carolina 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 all requested relevant information to the Presbytery of Western North Carolina.

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

Signature

Date

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