
PRESBYTERY OF NEW HOPE

P O L I C Y A N D P R O C E D U R E

O N

S E X U A L M I S C O N D U C T

R E V I S E D : A P R I L 2 4 , 2 0 0 2

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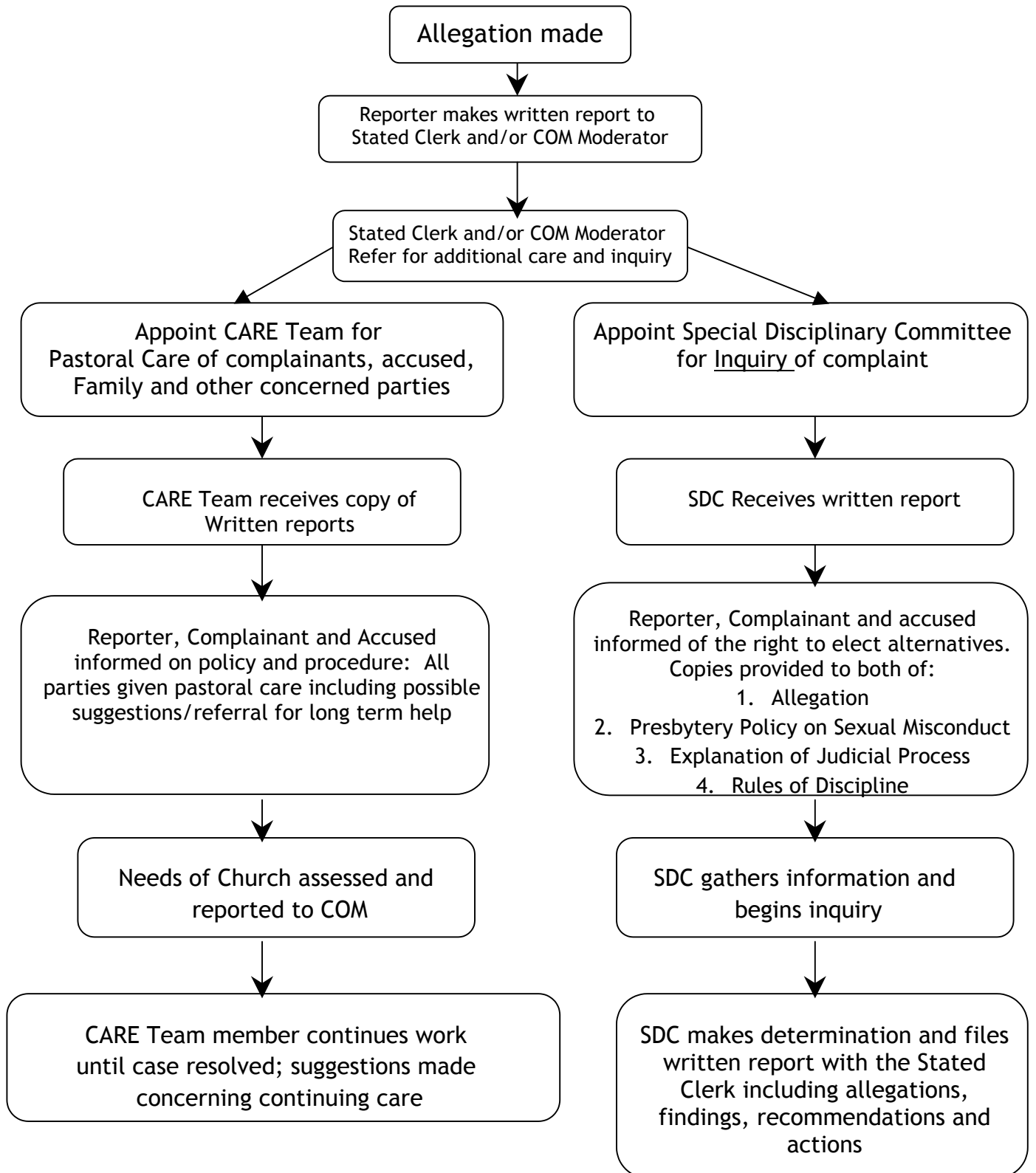
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S E X U A L M I S C O N D U C T P R O C E S S O U T L I N E



PRESBYTERY OF NEW HOPE

POLICY AND PROCEDURE ON SEXUAL MISCONDUCT

PART I. POLICY

A. POLICY STATEMENT

It is the policy of the New Hope Presbytery, of the Presbyterian Church (U.S.A.), that all 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, pastoral, employment, and professional relationship at all times. Sexual misconduct is not only a violation of the principles set forth in Scripture, but also of these relationships and is never permissible.

B. PURPOSE

New Hope Presbytery adopts this policy on sexual misconduct for the use of all governing bodies and entities of the church. Its purposes are:

1. to set and enforce standards of ethical behavior consistent with Reformed tradition as well as federal and state law;
2. to provide procedures for inquiry and effective response to allegations of sexual misconduct and for the protection of persons in the church;
3. to serve as a guide for governing bodies under the Form of Government and the Rules of Discipline;
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 in the church through appropriate training and supervision of employees, education of laity and clergy, and nurturance of the spiritual, emotional, and physical well-being of all God's people;
6. to serve as an alternative means by which instances of sexual misconduct may be remedied without recourse to church or civil judicial process;
7. to demonstrate pastoral concern for all parties involved in allegations of sexual misconduct; and

8. to further the peace, unity and purity of the church through justice and compassion.

C. OVERVIEW OF PROCEDURE

The following procedures are only for allegations against ministers. Allegations against ministerial employees of New Hope Presbytery will be referred to the Personnel Committee who will serve as a Special Disciplinary Committee (SDC). The Presbytery CARE Team shall be used. Local churches and other entities must provide their own procedures.

When a report of sexual misconduct is filed, two separate teams are appointed. Since it is difficult for one team to make inquiry into the facts and also to be supportive and responsive to the needs of all, these functions will be handled separately. The CARE Team is responsible for providing pastoral support and addressing as many of the needs discussed in Section IV as possible, but shall be independent from the Special Disciplinary Committee and shall make no inquiry and have no fact-finding duty. The appointment of a Special Disciplinary Committee does not indicate the truth or falsity of the claim, rather the Special Disciplinary Committee is responsible for inquiry into the facts pursuant to Section V of this policy and the Rules of Discipline, *Book of Order*.

PART 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.
Do not lord it over those in your charge,
but be examples to the flock.

You know that we who teach
shall be judged with greater strictness.

1 Peter 1:15; 5:2-3; James 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 is conveyed an understanding of God and the gospel's good news. "Their manner of life should be a demonstration of the Christian gospel in the church and the world." (G-6.0106a)

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, exploitive, and unjust manner. If the parishioner, student, client, or employee initiates or invites sexual contact 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 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.
- (4) False accusation is a violation of trust just as sexual misconduct is a violation of trust.

PART III. DEFINITIONS

- A. Accused is the person against whom a claim is made of sexual misconduct.
- B. 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 or gratification 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. The age of maturity is governed by state law.
- C. Civil 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.
- D. Complainant is the person who is claiming to have been injured by sexual misconduct as defined below.
- E. Entity is congregation, camp, program or office managed by a board, committee, council, or other body whose membership is accountable to a governing body.
- F. 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 or homes for the aged. A governing body may have both church members and non-members as employees.
- G. High Risk Occupation is one which calls for a person to work in close contact with those who are vulnerable and less capable of protecting themselves: children, elderly persons, those who are wholly or partially incapacitated, or counseling clients having emotional or personal problems.

- H. 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.
- I. Investigation is the term generally used by police, civil prosecutors, and child protective services when responding to allegations of an offense.
- J. Mandated Reporter is described by state law as a person who is required to report any and all suspected incidents of child abuse, including child sexual abuse, that comes to his/her attention.
- K. Pastoral CARE Team Pool (hereafter called the “CARE Team Pool”) is a body of persons skilled and trained in effectively addressing the needs arising from cases of sexual misconduct and providing pastoral support.
- L. Pastoral CARE Team (hereafter called the “CARE Team”) is a team of two or more members whose function is to provide supportive, pastoral care to the affected parties.
- M. 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.
- N. Reasonable Suspicion or A Reasonable Cause To Suspect refers to a belief or opinion based on facts or circumstances that are sufficient to cause prudent person to want to inquire further, to take protective action, or to report to the proper authorities or to an appropriate person.
- O. Reporter is the person who claims knowledge of sexual misconduct by a person covered by this policy and makes the initial report. The reporter may or may not be the complainant of alleged sexual misconduct and may be an individual or an entity. A person such as a family member, friend or colleague of the complainant may be the reporter whose information initiates an inquiry.
- P. Response is the action taken by the governing body 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 complainants and their families, reporters, accusers and their families, and others, and (4) pastoral care and rehabilitation for the perpetrators and care for their families, or (5) recommendation of no action.
- Q. Sexual Harassment as defined for this policy is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature which constitute sexual harassment when:
 - 1. Submission to such conduct is made either explicitly or implicitly as a term or condition of an individual’s employment, or his/her continued status in an institution;
 - 2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions such as continued employment, possible promotions or demotions, salary increases, etc., affecting such individual; or
 - 3. Such conduct has the purpose or effect of unreasonable interference with an individual’s work performance by creating an intimidating, hostile, or offensive working environment.

- R. Sexual Misconduct is the comprehensive term used in this policy to include:
- a. Child sexual abuse as defined above;
 - b. Sexual harassment as defined above;
 - c. Rape or sexual contact by force, threat, or intimidation; and
 - d. Sexual Malfeasance. Sexual malfeasance is defined as sexual conduct within a ministerial (e.g. clergy with a member of the congregation) or professional relationship (e.g. counselor with a client, lay employee with a church member, presbytery executive with a committee member who may be a lay person, a minister, or an elder). Sexual conduct includes unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature. This definition is not meant to cover relationships between spouses, nor is it meant to restrict church professionals from having normal, mutual, social, intimate, or marital relationships.
- S. Special Disciplinary Committee Pool (hereafter called the “SDC Pool”) is a body of persons skilled and trained in effectively conducting an inquiry pursuant to the *Book of Order*.
- T. Special Disciplinary Committee (hereafter called the “SDC”) is a committee appointed from the Special Disciplinary Committee Pool which makes the inquiry and ascertains the facts and circumstances concerning the alleged offense and proceeds as provided in *The Book of Order*, D-7.0800 through 33 D-7.1200.
- U. Volunteer is one who provides services for a governing body and receives no benefits or remuneration. Volunteers include persons elected or appointed to serve on boards, committees, other groups, or serving in some unofficial, but church-identified capacity. 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. These guidelines are intended for volunteers including, but not limited to, persons who are youth advisors, children’s workers, lay counselors, boy or girl scout, or camp counselors.

PART IV. 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 governing body is ready to meet the variety of needs present, a CARE Team shall be named. This CARE Team will not make inquiry into the allegation or in any way function as a Special Disciplinary Committee, but should confine itself to coordinating a process that will meet the specific needs of the situation. In cases of sexual misconduct, the needs of the complainants and/or reporters and their families (if any), the accused and family (if any), employing entities, congregations, and governing bodies include the following:

A. NEEDS OF THE COMPLAINANT AND THE REPORTER

The governing body, employing entity, and CARE Team shall assure that adequate treatment and care are available for alleged complainants of sexual misconduct and their families. Sometimes, the complainant 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 complainant 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 complainants, reporters and their families.

The extent of the damage to the complainants 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 complainant, human dynamics, and the importance of one's religious faith. The governing body, entity, and CARE Team are to assume in all cases that the complainant 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 complainants. It is important for the CARE Team to be sensitive to the complainant's pain and need for healing, and to act by making appropriate pastoral care available.

The following are some of the needs of complainants and reporters:

1. To be heard and taken seriously.

From the time that the complainant and/or reporter first indicates that sexual misconduct has occurred, that person should receive immediate attention and serious consideration from all church representatives.

2. To receive respect of privacy and to be assured that confidentiality will be preserved whenever possible.

The CARE Team treats all information as confidential until the confiding party gives permission for revealing that information or until disclosure is otherwise required by law.

3. To receive pastoral and therapeutic support.

The complainant and reporter may require spiritual and professional assistance as a result of sexual misconduct. The CARE Team should offer to help arrange for such support from a pastor and therapist. The complainant and/or reporter needs support to allow for continued work and/or worship in their community of faith without intimidation.

4. To be informed about church process and progress of the case.

One member of the CARE Team should be the contact person for the complainant and/or reporter. The contact person will confirm that the complainant has received a copy of the Presbyterian Policy and Procedure on Sexual Misconduct, information regarding the process of the inquiring body, a

copy of the *Book of Order, Rules of Discipline*, on-going information regarding the progress of the case, and information regarding available remedies.

5. *To be informed of the right to legal counsel.*

The CARE Team shall inform the complainant that he/she has the right to seek legal counsel. It should be noted that in church disciplinary or remedial cases no person shall act as counsel who is not a member of the Presbyterian Church (U.S.A.)” (*Book of Order*, D-10.0 000). Stated Clerks should maintain a list of Presbyterian lawyers who are willing to consider representing parties in church disciplinary cases.

6. *To be assured of an advocate of one’s own choosing.*

A complainant and/or reporter 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 CARE Team. This advocate could speak for the complainant, if necessary.

7. *To be assured that justice will be pursued.*

The complainant needs to be told by the CARE 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. The complainant shall be informed of possible remedies, to include the alternative remedies outlined in Section V, Paragraphs A and F of this paper.

8. *To receive healing and reconciliation,*

Healing and reconciliation with all concerned - the self, the family, the church and ideally, the accused - can begin through the use of the church’s processes and resources. However, one should recognize that all of these needs may 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 complainant and reporter respected.

B. THE NEEDS OF THE ACCUSED

The governing body or entity shall offer treatment and care for the accused as well as alleged victims and families. If the accused is a minister, this care and treatment should be consistent with the guidelines and procedures of the Committee on Ministry (*Book of Order*, G-11.0501 and *G-11.0502*). Whether the claims are true or false, the accused may experience feelings of guilt, indignation, shame, anger, mistrust, lowered self-esteem, depression, unworthiness, and feelings of alienation from God, self, the religious community, and family. In addition, there may be fear of job loss, incarceration, and loss of reputation.

The following are some of the needs of the accused:

1. *To be informed about the charges, church process and progress of the case.*

a. Information About the Charges

The accused shall receive written notice that an allegation has been filed and a copy of the allegations. At this time the accused shall be advised to have no further contact of any sort with the complainant, the reporter, or their families. The accused shall be warned that any statements made to the Special Disciplinary Committee may be used against the accused in later proceedings. Except as required by law or by court order, the CARE Team members shall not reveal any information to any other person or entity. An accused shall be advised of the foregoing.

b. Information about the church process.

The accused shall receive a copy of Presbyterian Policy and Procedure on Sexual Misconduct, information regarding the process of the inquiring body, a copy of the Book of Order Rules of Discipline and information regarding available remedies outlined in Section V of this paper.

c. Information regarding the progress of the Case.

The CARE Team member who contacts the accused shall keep the accused informed of the progress of the case and the inquiry.

2. *To receive respect for privacy and to be assured that confidentiality will be preserved whenever possible and/or appropriate.*

3. *To be informed of the right to legal counsel.*

The accused may seek legal advice from any source, but it should be noted that in church disciplinary or remedial cases “no person shall act as counsel who is not a member of the Presbyterian Church (U.S.A.)” (*Book of Order*, D-7.0300). Stated Clerks should maintain a list of Presbyterian lawyers who are willing to consider representing parties in church disciplinary cases. If an allegation proceeds to the initiation of a disciplinary case and the accused is unable to employ counsel, the accused may request appointment of counsel under the provisions of *Book of Order*, D-10.000.

4. *To be assured that justice will be pursued.*

The accused shall be assured that he or she will be afforded a fair hearing and open-minded treatment.

5. *To receive pastoral and therapeutic support.*

The CARE Team may suggest that the accused seek spiritual support and/or professional counseling with someone whose conversations would be recognized by courts as confidential and privileged communication. The CARE Team, without any endorsement whatsoever, may provide a list of names of impartial clergy or therapists to the accused, but should not itself engage in counseling. People in staff positions, such as Presbytery executives or Stated Clerks, should not engage in personal counseling of the accused because of their involvement in disciplinary process.

6. *To receive assistance in relating to the session and congregation.*

When an allegation of sexual misconduct is made against a minister, assistance in the minister's relating to the session and the congregation is provided by the Committee on Ministry pursuant to the *Book of Order*. The CARE Team may alert the Committee on Ministry initially to the anticipated needs of a particular congregation and recommend expert resources.

7. *To maintain economic security and care for family of accused.*

When an allegation of sexual misconduct has been made, the economic security of the accused is directly threatened, along with reputation, career, and family relationships. When the accused is a minister, the CARE Team may inform the minister that the Committee on Ministry has oversight of the spiritual, emotional, and financial needs of ministers and their families. The CARE Team should not itself become personally involved with trying to meet these needs.

C. THE NEEDS OF A CONGREGATION

A congregation may experience many problems following allegations of sexual misconduct by a minister, employee, or volunteer. The allegations may polarize the congregation, 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 to heal damage that is done to the congregation. When a minister, non-ordained staff, or volunteer in a particular congregation has been accused of sexual misconduct, a number of needs unique to that congregation will emerge. These needs will not necessarily emerge in the same sequence in each situation. The following are some of the needs of congregations:

1. *To receive pastoral care.*

Members and staff of the congregation will need pastoral care. If it is the pastor who is accused of sexual misconduct, care shall 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, 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 accused of the sexual misconduct, then the pastor will provide the needed care for the congregation. The pastor, if not previously trained in this specialty area, should consult with denominational specialists for advice on proceeding with anticipated problems.

2. *To be informed about the case.*

Members of the congregation will need opportunities both to receive and give information. If a accusation of sexual misconduct becomes a matter of public knowledge within a congregation or 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. If the accused is not the pastor, then the pastor may perform these functions. 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 receive care. At such meetings, one may expect members to vent their feelings. 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. These meetings should take place only after having first conferred with and received the advice and guidance of legal counsel and Presbytery representatives.

3. *To be informed about available resource persons.*

The Committee on Ministry and the Stated Clerk shall maintain information regarding the following resource persons whose services would be valuable to a congregation in the context of sexual misconduct:

- a. a trained interim pastor,
- b. Committee on Ministry representative knowledgeable in polity and the effects of sexual misconduct in the church,
- c. a consultant or therapist with knowledge and experience in dealing with sexual misconduct,
- d. an attorney who can discuss legal aspects of a case,
- e. an insurance agent who can advise the congregation about their exposure to liability or coverage.

D. THE NEEDS OF AN EMPLOYING ENTITY

The “Employing Entity” is understood to include the session, the Presbytery, or a Presbyterian institution such as a camp, school, or hospital. A congregation or employing entity may experience various problems following allegations of sexual misconduct by a minister, 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 the damage done to the congregation or organization. As a preventive measure, the employing entity should already have in place the following:

1. A written policy and procedure on sexual misconduct.

2. Good employment procedures.

Employers should already have established, detailed employment procedures. Such procedures include reference checking prior to employment, a clearly defined grievance process, regular reviews of performance, and confidential channels whereby employees can voice concerns or apprehensions. It would be advisable to have legal advice, as these procedures are developed, or legal review of those already in place, considering North Carolina’s status as an employment-at-will state.

All employees should be given an employee handbook that would include a section on sexual misconduct, its definition and the appropriate action to take when it occurs.

3. Risk management and liability insurance.

An employer may face liability awards in cases of sexual misconduct occurring within its jurisdiction. It is imperative that liability insurance that covers such occurrences be obtained, and the employer should consult frequently with insurance carriers regarding risk management procedures.

4. Clear reporting mechanisms and legal information.

The channels of reporting need to be made clear. If the accused is the complainant and/or reporter’s supervisor, then there must be an alternative route to follow when reporting an alleged incident. If the employer has a large number of employees, a formal orientation to the work place would be important. At the time of the orientation, definitions of sexual misconduct and reporting procedures need to be described, along with the misconduct consequences which should be outlined in the personnel policies.

5. *Provision for counseling.*

The personnel practices should include provision for pastoral or therapeutic counseling for complainant and/or reporters and others. The budget of the institution needs to be prepared to provide at least partial coverage of counseling costs.

6. *Provision for legal costs.*

Employer should develop a reserve fund for legal costs should there be a need to either prosecute or defend a case in church or civil courts.

7. *Information regarding available resource persons.*

The employer needs to have help from personnel experts, legal experts, pastoral counselors, and financial consultants. New Hope Presbytery should have a list of these resources and make them known to all entities.

E. THE NEEDS OF A GOVERNING BODY (PRESBYTERY AND SESSIONS)

A governing body (to be distinguished from the employing entity or the congregation in which sexual misconduct is alleged) has special needs and responsibilities as well. These needs include:

1. *To clearly establish a sexual misconduct policy and its procedures.*

It is the responsibility of the governing body to establish policy and its procedures governing cases of sexual misconduct in that jurisdiction. New Hope Presbytery will use the CARE Team described in this policy and the Special Disciplinary Committee to respond to allegations of sexual misconduct. If the accused is not a minister, the local church may use a CARE Team or a personnel committee for the management of sexual misconduct allegations, with the advice of the Committee on Ministry. The Book of Order D-3.000 explains further procedure for sessions. The procedure to be followed should be established and made known in advance of any complaints. If the accused is a minister, the decision regarding leave of absence shall be made by the Committee on Ministry. Sessions should formulate their own leave of absence policy for those under their jurisdiction.

2. *To obtain legal advice.*

The governing body may need competent legal counsel, particularly if allegations lead to judicial proceedings either under the ***Book of Order*** or in civil court. The attorney should be a Presbyterian familiar with Presbyterian polity (since the ***Book of Order*** requires that lead counsel before a permanent judicial commission be a Presbyterian), civil procedure, and the legal issues found in sexual tort, sexual harassment, and child-abuse cases.

3. To receive advice regarding risk management and liability insurance.

A governing body may face liability awards in cases of sexual misconduct occurring within its jurisdiction. It is imperative that liability insurance that covers such occurrences be obtained, and representatives of the governing body should consult frequently with insurance carriers regarding risk management procedures.

4. To provide education and training.

Elected and appointed officials of the governing body are very likely to be the ones who receive initial reports of sexual abuse within its jurisdiction. These persons should receive competent in-service training and education about the nature of such cases, together with careful preparation regarding the requirement of due process under the **Book of Order**.

5. To determine jurisdiction and to establish procedure.

In New Hope Presbytery, when a written statement of an alleged offense has been received in accordance with the **Book of Order**, D-3.0000, preliminary procedures begin automatically pursuant to the **Book of Order** and the procedures described in this policy. (see **Book of Order**, Rules of Discipline, D-10.0000, New Hope Presbytery Policy and Procedure on Sexual Misconduct).

Sessions have original jurisdiction in disciplinary cases involving members of the church, each having jurisdiction only over its own members. **Book of Order**, D-10.0000. Sessions of local churches should adopt a policy and procedure applicable to the local church, in accordance with the **Book of Order** Disciplinary Rules and not inconsistent with this New Hope Presbytery Sexual Misconduct Policy.

Sessions are urged to use a CARE Team as described in this paper. However, until a written sexual misconduct policy and procedures are provided (including the establishment of a CARE Team) the governing body may choose to use a personnel committee, with advice from the Committee on Ministry.

PART V. RESPONSES TO ALLEGATIONS OF SEXUAL MISCONDUCT

A. PRINCIPLES

1. *Introduction*

In responding to allegations of sexual misconduct, the church should seek healing and assure the protection of all persons. Wherever possible, the privacy of persons should be respected, and confidentiality of communications guaranteed. Except as otherwise required to be disclosed by law or compelled by court order, no one shall disclose any information relating to the allegations of sexual misconduct. By the provisions of the *Book of Order*, the PC (USA) assures all persons of fair procedures in the disciplinary process, and these procedures should be available throughout the handling of the allegations, even before the initiation of formal proceedings under the *Book of Order*.

Persons affected by allegations of sexual misconduct (including both the complainant and/or reporter and the accused) often need counsel of various kinds, including therapeutic, pastoral, and legal. The Special Disciplinary Committee and the CARE Team (Section IV of this Sexual Misconduct Policy) should assure that all such assistance is available as needed, and in some instances, it may be the responsibility of the governing body or employing entity to provide the costs for such counsel.

2. *Cases Requiring Special Handling*

- a. When abuse of a child is alleged, all states have mandatory reporting requirements that must be obeyed. In addition, an allegation of child abuse puts a special burden on supervisors or employers to assure that the possibility of additional abuse is foreclosed, which may call for administrative leave during the inquiry into the allegations.
- b. Similarly, when allegations are made that multiple complainants have suffered sexual abuse, administrative leave may be necessary and more extensive counseling resources (legal and therapeutic) may be required.
- c. Some cases may involve more than one governing body of the church, for example, when a minister against whom allegations are brought has transferred to another presbytery). In these instances, it is incumbent upon officers of the various governing bodies to cooperate fully in the handling of the complaint.

- d. Special problems may arise when allegations are brought regarding old cases of misconduct. (There are no time limits on bringing a charge of sexual abuse in the church. See D-10.0400.) Such cases may require conferring with officers of other governing bodies in which the accused has served. In older cases, the lingering effects on congregations may be severe and require close attention.

B. PASTORAL CARE TEAM (HEREAFTER REFERRED TO AS THE CARE TEAM)

1. Function

Since the process of the investigation of an alleged incident of sexual misconduct can be traumatic to all parties involved, provisions should be made that the accused, the complainant and/or reporter, the families of the accused and the complainant and/or reporter, and all other parties involved in the complaint shall have access to supportive, pastoral care. It is the responsibility of the CARE Team to provide pastoral support and to meet the needs delineated in Section IV this paper.

2. The CARE Team Pool (the “CARE Pool”): formation, composition, length of term.

- a. The CARE Team Pool shall be composed of clergy and lay persons with expertise in the dynamics of sexual misconduct in the church and with appropriate pastoral and counseling skills.
- b. The CARE Team Pool shall consist of at least 9 members designated by a committee comprised of the Stated Clerk, the Chair of the Committee on Ministry and the Moderator of the Women’s Ministry Unit. The initial Pool of 9 members shall be divided into 3 classes, labeled Class A, Class B and Class C. Class A shall consist of 3 members selected to serve a 2 year term. Class B shall consist of 3 members selected to serve a 3 year term. Class C shall consist of 3 members selected to serve a 4 year term. Thereafter, all members shall be selected to serve 3 year terms, thereby providing for continuing staggered terms. When a Pool member is appointed to a CARE Team, that member should commit to serve for the duration of the case.
- c. All Pool members shall be members of the Presbyterian Church (U.S.A.).
- d. The Pool shall be diverse as to gender, race, ethnic background and geographical location.
- e. The Pool members shall be familiar with Presbyterian policy and procedure and shall complete the education and training requirements in Section VI of this document within 2 months after the date of designation.
- f. New Hope Presbytery staff are prohibited from membership in the Pool.

- g. All Pool members shall sign the Employment Questionnaire (see Appendix A of this document) and file it with the Presbytery New Hope office within 15 days of selection to the Pool.
- h. Pool members shall meet not less frequently than once a year for continuing professional training and sharing of information and experiences relating to their duties and responsibilities in the Pool.

3. *Composition of CARE Team*

CARE Team members shall be drawn from the CARE Team Pool to serve until the completion of the case.

4. *Confidentiality of the work of the CARE Team*

Because confidentiality is crucial in effective pastoral care and pastoral counseling, the conversations between the CARE Team members and the persons involved in the complaint shall be held in confidence and not shared with the SDC nor anyone else unless written permission is given by each person who provided the information to a CARE Team member or the Team member is so ordered by a court of law.

5. *Available Resources*

The CARE Team shall determine the availability of resources (including persons, funding, and support services) to meet the appropriate needs of the affected persons. If necessary, these resources should be sought outside the particular governing body if such resources are not immediately available. Without endorsement, Presbyteries or other governing bodies are advised to compile and frequently update a list of available impartial psychological counselors, pastoral counselors, attorneys, conflict managers, and insurance advisors who will be available for assistance to the affected parties in a given case.

C. SPECIAL DISCIPLINARY COMMITTEE POOL AND THE SPECIAL DISCIPLINARY COMMITTEE

1. *Introduction*

The Special Disciplinary Committee works at the governing body level to make an inquiry and to determine if a disciplinary case shall be initiated. The Special Disciplinary Committee shall be responsible to all persons, entities, and governing bodies who are affected by the alleged misconduct.

2. *The Special Disciplinary Committee Pool (the "Pool"): formation, composition, length of term*

- a. The Pool shall consist of at least 9 members designated by a committee comprised of the Stated Clerk, the Chair of the Committee on Ministry and the Moderator of the Women’s Ministry Unit. The initial Pool of 10 members shall be divided into 3 classes; labeled Class A, Class B and Class C. Class A shall consist of 4 members selected to serve a 2 year term. Class B shall consist of 3 members selected to serve a 3 year term. Class C shall consist of 3 members selected to serve a 4 year term. Thereafter, all members shall be selected to serve 3 year terms, thereby providing for continuing staggered terms. When a Pool member is appointed to a SDC, that member should commit to serve for the duration of the case.
- b. All Pool members shall be members of the Presbyterian Church (U.S.A.).
- c. The Pool shall be diverse as to gender, race, ethnic background and geographical location.
- d. The Pool shall include members with expertise and/or experience in the following areas:
 - (1) child advocacy
 - (2) law (particularly sexual harassment/abuse, civil torts, due process, criminal or domestic issues)
 - (3) conflict management and resolution (particularly in the religious community setting)
 - (4) personnel management and training
 - (5) insurance and risk management
- e. The Pool members shall be familiar with Presbyterian policy and procedure and shall complete the education and training requirements in Section VI of this document within 2 months after date of designation.
- f. New Hope Presbytery staff is prohibited from membership in the Pool.
- g. All Pool members shall sign the Employment Questionnaire (see Appendix A of this document) and file it with the New Hope Presbytery office within 15 days of selection to the Pool.
- h. Pool members shall meet not less frequently than once a year for continuing professional training and sharing of information and experiences relating to their duties and responsibilities in the Pool.

3. *The Special Disciplinary Committee (hereafter the “SDC”): formation, composition, term and duties*

- a. The SDC shall consist of 3-5 members, appointed from the current elected Pool by the Moderator, in consultation with the Stated Clerk or the Moderator of the COM.

- b. The SDC shall be diverse as to gender and reflect, at least to some extent, the ethnic background of both the complainant and the accused.
- c. The SDC membership shall possess expertise and/or extensive experience in the following area:
 - (1) child advocacy, when appropriate
 - (2) law
 - (3) conflict management and resolution
 - (4) insurance and risk management
 - (5) personnel management and training, when appropriate
- d. All SDC members shall have completed and be current with all Pool education, training and disclosure requirements.
- e. No member of a specific SDC may be a member of the congregation from which the allegation at issue arises.
- f. The members of the SDC shall select their own chair.
- g. Costs of the SDC and related services shall be provided by the entity or governing body from which the allegation arises.
- h. The SDC shall be responsible for providing requisite notice, to include notice of available alternate remedies, assuring due process, investigating the allegation, facilitating resolution and filing a final report.
- i. The SDC shall be dismissed when the final report is filed or at the termination of the case, whichever comes last.

D. INVESTIGATIVE PROCEDURES

The following procedures are only for allegations against ministers. Allegations against ministerial employees of New Hope Presbytery will be referred to the Personnel Committee who will serve in the role as a Special Disciplinary Committee. The Presbytery CARE Team shall be used. Local churches and other entities must provide their own procedures.

1. The Duty to report sexual misconduct.

a. General Reporting

Reports of sexual misconduct will arise in a variety of ways. Therefore it is important that officers, employees, and persons highly visible to church members and visitors understand how to channel a report to the proper person.

Reports of sexual misconduct should never be taken lightly or disregarded. Reports should be dealt with as matters of highest confidentiality, both before and after they have been submitted to appropriate authorities.

The person receiving the initial report of sexual misconduct should not undertake an inquiry alone.

The person receiving the initial report of sexual misconduct from the complainant and/or reporter shall, with the consent of the complainant, immediately inform the Stated Clerk, who shall provide guidance on preparation of the written report. (*Book of Order*, D-10.0000)

b. Child Sexual Abuse Cases

Within the church, all persons covered by this policy have a duty to report child sexual abuse to the employing entity, supervisor, or governing body representative. All persons should be informed of and must comply with state and local laws regarding the reporting of incidents of actual or suspected child sexual abuse.

2. *Receiving the initial report*

The individual receiving a report is required to file immediately a written report with Stated Clerk, signed by the complainant. It may be that the accused has more power in the organization than the complainant and/or reporter. In that case, the person who receives the initial report of sexual misconduct must find the appropriate person within the governing body (Stated Clerk or COM Moderator). If the accused is the Stated Clerk, the concern goes to the Moderator of Council, who will request the Moderator of New Hope Presbytery to appoint a Special Clerk and an SDC to handle this judicial issue. The matter may then be referenced to the Synod of the Mid-Atlantic.

3. *Convening of a Special Disciplinary Committee*

Upon receipt of written allegations of sexual misconduct, the Stated Clerk or COM Moderator will convene a SDC within seven working days. In order to call a Special Disciplinary Committee, the Clerk need not be personally persuaded of the truth of the allegation nor need the Clerk see all the supporting evidence available to the Special Disciplinary Committee. At its first meeting, the SDC shall select its chair and receive a report containing the complaint and the identity of the affected parties.

4. *Role and Functions of the Special Disciplinary Committee*

The SDC will serve the following primary functions:

- a. Receive the report of sexual misconduct.
- b. Provide notice to the accused of the complaint, the formation of the SDC, the right to counsel, the right to remain silent and the fact that any

statements made to the SDC can be used against him/her in subsequent proceedings, and the availability of alternative remedies. The accused shall also be directed to have no further contact with the complainant and/or reporter or his/her family and provided with a copy of this Presbyterian Policy and Procedure on Sexual Misconduct and a copy of the Rules of Discipline from the current Book of Order. The complainant and/or reporter shall receive notice of available alternative remedies and a copy of the Presbyterian Policy and Procedure on Sexual Misconduct and the Rules of Discipline from the current Book of Order.

- c. Confirm that civil and criminal authorities have been notified, when appropriate.
- d. Inquire into the allegations according to the Preliminary Procedure specified in the Book of Order, D-2.0200.
- e. Ascertain if the parties are willing to pursue alternative remedies such as mediation, pursuant to D-2.0200, Book of Order.

5. *Media Contact with the Special Disciplinary Committee*

Any inquiries from the media regarding an incident of sexual misconduct must be directed to a designated official of the governing body or entity involved, whose response, if any, will be made after first conferring with legal counsel. Questions from the media shall not be addressed by any member of the SDC.

6. *Special Disciplinary Committee Record Keeping*

The SDC shall keep careful records of its proceedings, including detailed accounts of its actions, *minutes* of its deliberations and its conversations with all affected persons, copies of the initial report, correspondence, and copies of reports to the governing body or entity. When the matter has been resolved, the records shall be forwarded to the stated clerk or designated personnel official of the governing body or entity where they will be marked “confidential” and securely stored. Members of the SDC shall keep no separate or duplicate records of material that has been turned over to the governing body as a result of its work.

E. SDC REPORTS AND RECOMMENDATIONS

- 1. *A brief written report shall be made by the SDC to the Stated Clerk.***
- 2. *The written report of the case for submission to the Stated Clerk shall include the following:***
 - a. Names of parties involved;
 - b. Governing body membership of the parties involved;
 - c. Allegations made by the accuser;

- d. Response made by the accused;
 - e. Findings and conclusions; and
 - f. Resolution of the case or suggested further actions to be taken by the governing body or entity. If there are no charges, the report will be included in the Presbytery Confidential file for three years.
3. ***The SDC will report to the governing body whether or not it will file charges.***
 4. ***If there axe charges and a trial, the recommended action is followed and recorded in the minutes of Presbytery.***

F. REMEDIES

1. *Introduction*

These remedies (except for final dismissal) are not mutually exclusive, and the failure of one process may lead to another. The appropriate protection of confidentiality and guarantees of the due process rights of all persons are essential. In the context of sexual misconduct in the church, the use of an alternative process may be in the best interest of the parties and the church. Agreements that do not address all issues or meet the concerns of all parties are not in the best interest of the church. Either the complainant or the accused shall have the right to appeal the personnel committee's decision through standard guidelines and procedures of the entity. The results of these remedies may include, but are not limited to, church censure (to include removal from office), financial compensation, and admissions and apology.

2. *Non-judicial Remedies*

When allegations of sexual misconduct in the church are made, it may sometimes be appropriate to resolve the matter without recourse to judicial process as described in *Book of Order*. If such alternatives are pursued, however, it is essential that the matter be handled with full regard for the interests and rights of all affected parties. Non-judicial dispute resolution processes are widely and successfully used in private conflicts as well as in civil and criminal cases. (See, for example, Section 18.03, Personnel Policies of the General Assembly, PC (USA).) Religious bodies have served as valuable allies in the development of these alternatives, providing both incentive and resources for dispute resolution programs.

Alternatives to judicial process may include:

a. Negotiation

In the negotiation process, advocates for the parties to a conflict are responsible for working out a solution that effectively resolves all issues and

protects the interests of all parties. In some cases, an individual may successfully represent his or her own interests rather than having an advocate, but this is rarely advisable. For a negotiated settlement to be successful, all parties affected by the dispute should be represented in the negotiation and all issues should be resolved.

b. Mediation

In the mediation process, the parties to a conflict are enabled through the assistance of a mediator to work out their own agreement for resolving the dispute. Mediation differs from both arbitration and negotiation in that the power to make the final decisions is retained by the parties themselves. The successful outcome of a mediation is a function (among other things) of the willingness and ability of the parties to reach agreement and the creativity of the mediator in helping to shape that agreement in the interests of all concerned. A critical role of the mediator is the establishment and maintenance of a power balance between the parties during the mediation process.

c. Arbitration

In the arbitration process, all parties to a conflict agree to submit the dispute to an independent person or panel. In a sexual misconduct case, the arbitrator should be someone with extensive experience in non-judicial arbitration that is also familiar with Presbyterian polity, especially the polity involving disciplinary cases and the responsibilities of the Committee on Ministry. All affected parties should have the opportunity to present their case to the arbitrator, and the arbitrator's decision may be binding or non-binding.

d. Dismissal of Charges or Allegations

While not technically a dispute resolution process, dismissing or dropping the charges may sometimes be a way to resolve an allegation. This may happen because charges are determined to be false or insignificant, or because the costs (financial or otherwise) of pursuing the charges are too high. For a dismissal to be effective, all parties must agree to it and all significant disputes should be set aside. Dismissal without this will very likely lead to continuing conflict and further damage to the parties and the church.

3. *Judicial Process (Book of Order)*

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-2.0000)*. The pastoral relationship of ministers serving congregations is subject to oversight by the presbytery (*Book of*

Order, G-14.0602, G-14.0603, G-11.0501a; G-11.0502j). Safeguards, as in cases of judicial process for synod and presbytery staff are found in *G-9.0705*.

Ministers employed by a synod or General Assembly entity hold ministerial standing in presbyteries. Response to allegations of sexual misconduct by such ministers will be made by the entity under the personnel policies. Such ministers will also be subject to the Rules of Discipline as a member of presbytery.

The session has original jurisdiction in disciplinary cases involving members of the church, each having jurisdiction only over its own members (D-10.0000). A church member who is accused of sexual misconduct away from the congregation to which the member belongs may be prosecuted by secular authorities but may only be removed from membership by the session of the congregation to which the member belongs.

When a church member is accused of sexual misconduct, the disciplinary process is the same as that described for ministers and found in Chapter VII. of the Rules of Discipline. A Special Disciplinary 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-10.0000). 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, the jurisdiction of the session ends. The session records that the case was closed and the Special Disciplinary Committee dissolved (*Book of Order*, D-2.0000 and D-10.0000).

G. GOVERNING BODY RECORD KEEPING

The governing body should keep detailed records of its correspondence, actions, minutes of its deliberations and its conversations with the reporter, complainant, the accused, and other parties involved. Such records will be kept in a confidential file. The clerk of the governing body will maintain the records while the inquiry is in process. After the case has been resolved, the Special Disciplinary Committee or personnel committee will prepare a brief summary report. A copy will be included in the accused's permanent personnel file, and a copy of the report will be given to the complainant and the accused.

H. FINANCIAL IMPLICATIONS

The financial implications of sexual misconduct are many. At present it appears that the cost of processing sexual misconduct cases is manageable within the ecclesiastical system. Some governing bodies may feel overwhelmed at one point or another to deal with a specific caseload. The higher governing bodies should provide a pool of resources, financial and otherwise, to help minimize the immediate impact of such cases and to enable the lower governing bodies to respond more effectively. The financial implications for the future can be reduced by proactive care and training in the present. Civil and criminal cases are imposing an additional burden to a

few governing bodies. While insurance carriers have been helpful in the past, it appears that they will be less helpful and more restrictive in the future.

PART VI. EDUCATION AND TRAINING

Since the issue of sexual misconduct has become an evermore present reality, there is a need to educate and train a wide variety of persons. Education often happens in response to actual cases of sexual misconduct. It is recommended that governing bodies and entities be as proactive as possible in offering education so that they will be able to respond out of competence rather than out of ignorance and irrationality when confronted with allegation of sexual misconduct.

A. GROUPS REQUIRING EDUCATION

Education will be different on a group by group basis. Persons needing specific education include:

- 1. CARE Team pool (within 2 months of designation)*
- 2. SDC Pool (within 2 months of designation)*
- 3. Committee on Ministry*
- 4. Governing body staff*
- 5. Professional and non-professional church staff (within 1 year of implementation of policy)*
- 6. Ministers (within 1 year of implementation of policy and/or arrival in the Presbytery).*
 - a. Newly ordained pastors
 - b. All pastors of the Presbytery
 - c. Ministerial candidates
- 7. Sessions*
- 8. Members of the congregation*

B. RESPONSIBILITIES OF EMPLOYING ENTITIES

- 1. Provide copies of the New Hope Policy and Procedure on Sexual Misconduct policy to all full, part-time, temporary, and interim staff and volunteers.*
- 2. Receive signed acknowledgement of the policy (Appendix C).*
- 3. Provide opportunities for continuing education.*

C. EDUCATION

1. *Policy and Procedure*

All employees and volunteers shall be well acquainted with and abide by the Presbytery of New Hope Sexual Misconduct Policy.

2. *Preventive Awareness*

Training shall be provided which addresses the issues of sexual misconduct to include:

- a. Factors in crossing boundaries in professional relationships
- b. Ethical analysis of clergy roles focusing on power and authority
- c. Prevention strategies and ways to intervene after the fact

3. *Risk Management*

Education should include basic information regarding risk management (See Section VII)

D. CONTINUING EDUCATION

Continuing education shall be offered on a timely basis. It may include:

1. Additional training
2. Legal updates
3. Review of policy and procedure
4. Information on currently available resources

E. EDUCATION FOR POOLS

Training for the pools shall include:

1. In-depth training in the Presbytery of New Hope Sexual Misconduct Policy and Procedure paper
2. *Book of Order* disciplinary procedure
3. In-depth training on sexual misconduct and its ramifications for all People involved
4. Risk management and general information on civil and criminal laws

PART VII. RISK MANAGEMENT

A. IMPLEMENTATION

The Presbytery of New Hope urges all congregations and other entities related to the Presbytery to establish policies, procedures and practices related to sexual misconduct. All are urged to take appropriate steps to inform members, employees and volunteers of the standards of conduct and the procedures for effective response when receiving a report of sexual misconduct.

The structure and procedures for responding to allegations of sexual misconduct are mandated by the *Book of Order* (see G-11.0502 and D-10.0000) and the New Hope Policy and Procedure paper. In cases of child sexual abuse or other cases in which criminal charges are filed, the secular authorities will investigate and dispose of those Criminal charges. Congregations and other entities have a duty to make their own inquiries and to enforce disciplinary procedures without interfering with the secular authority.

B. LIABILITY AND INSURANCE

A congregation or entity can be held liable for harm caused by sexual misconduct of a minister, employee or volunteer based on a number of legal theories such as negligent hiring and supervision. They must take such potential liability into consideration when establishing hiring, recruiting and supervisory practices.

Congregations 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 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 officer, directors or employees.

C. EMPLOYMENT PRACTICES

1. Record Keeping

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

2. Prescreening Applicants

Presbytery, congregations and entities are urged to establish stringent hiring and recruiting practices. If an applicant is unknown to the employers, 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. A person who has been offered employment should be asked the following questions, and employment may be made subject to acceptable responses.

- a. Have you been found guilty or deemed to be liable in a court of law or ecclesiastical body for any actions involving sexual misconduct?
- b. Have you ever resigned or been terminated from a position for reasons relating to allegations of sexual misconduct?
- 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 of sexual misconduct?
- e. If so, please give a short description of the treatment including the date and nature of treatment, place, and name, address and telephone number of the treating physician or other professional and a release directed to all health care providers to divulge any and all recommendations of treatment relating to the subject of sexual misconduct.

A sample employment questionnaire is attached in Appendix A. The questions included in this sample may be integrated into a standard employment questionnaire, with other necessary questions.

3. *References*

The Presbytery, congregation or entity is responsible for contacting references for prospective ministers, employees or volunteers. A written record of conversation or correspondence with references should be kept in a confidential personnel file.

In dealing with ministers under consideration by a pulpit nominating committee, Presbytery should assume responsibility for previous employer reference checks through the synod executive or executive presbyter. The Presbytery shall report to the PNC that there have been no reports of sexual misconduct or that the committee should inquire into reported sexual misconduct.

The person within the Presbytery, congregation or entity authorized to give a reference on behalf of a minister under consideration by a PNC is obligated to give truthful information regarding allegations, inquiries, and administrative

or disciplinary actions related to sexual misconduct of the applicant. The response, must be limited to information that is a matter of public record (for example, presbytery minutes) or in the applicant's own personnel file that is maintained by a Presbytery, congregation or entity.

If false or misleading information is given 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.

D. DISTRIBUTION

Copies of this policy and its procedures shall be distributed to all congregations, entity offices, all employees, and volunteers, and be available to all church members. It is intended for use by church members, church officers, employees and volunteers.

VII. APPENDIX

SAMPLE EMPLOYMENT/VOLUNTEER QUESTIONNAIRE

Name: _____
Last
First
Middle

Address: _____
Street
City
State
Zip

Business Phone: _____ Home Phone: _____

Have you ever been known by any other name? _____ Yes _____ No

If yes, please provide other *name(s)* _____

Employment Record (Please list or provide separate sheet with current and previous employers for last ten years including Employed By, Address, Your Supervisor, Supervisor’s Phone, Supervisor’s Title, Employment Dates, and Reason for Leaving.)

Please complete the following certification:

I certify that (a) no civil, criminal, ecclesiastical complaint has ever been sustained or is pending against me or 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 (Name of the employing Entity)_____.

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

Signature

Witness

Witness

SAMPLE CONFIDENTIAL EMPLOYMENT REFERENCE

Name of Applicant: _____

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

Date and Time of Contact: _____

Person Contacting the Reference or Church: _____

Method of Contact (phone, letter, personal conversation):

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):

**SAMPLE FORM FOR IMPLEMENTING POLICY ON SEXUAL MISCONDUCT
AND ACKNOWLEDGMENT OF RECEIPT**

I hereby acknowledge that I received on _____ date(s) a copy of the
“New Hope Presbytery Policy and Procedure on Sexual Misconduct” and that I have read the
policy, understand its meaning, and agree to conduct myself in accordance with the policy.

Signature

Date

SAMPLE REPORT OF SUSPECTED SEXUAL MISCONDUCT

Reported by:

<i>Name</i>	<i>Role</i>
<hr/>	
<i>Address</i>	
<hr/>	
<i>Telephone</i>	
<hr/>	

Date of Report:

Person suspected of misconduct:

<i>Name</i>	<i>Role</i>
<hr/>	
<i>Address</i>	
<hr/>	
<i>Telephone</i>	
<hr/>	

Other person(s) involved (witness or victim)

<i>Name</i>	<i>Role</i>
<hr/>	
<i>Address</i>	
<hr/>	
<i>Telephone</i>	
<hr/>	

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

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

Other information that may be helpful to the investigation.

* Sustained

- 1) In a criminal court, “sustained” means that there has been a guilty plea, a plea of nolo contendere a guilty verdict or a plea bargain.
- 2) In a civil court, “sustained” means that there has been a judgment against the defendant.
- 3) In an ecclesiastical case, “sustained” means that there has been a guilty plea and censure imposed, or finding of guilty with censure imposed, by a permanent judicial commission in the Presbyterian Church (U.S.A.) or an equivalent body of another church.

*Pending

- 1) In a criminal court, “pending” means a criminal charge before a grand jury, in the process of being prosecuted, or in a case in which there is not yet a verdict.
- 2) In a civil court, “pending” means a case in which there has not been a decision or judgment.
- 3) In an ecclesiastical case, “pending” means an accusation is being investigated *by* a Special Disciplinary Committee or charges have been filed but have not yet been decided by a permanent judicial commission; or an accusation or charges are in an equivalent state or process in a church other than the PC (USA).

(The following is taken from definitions in the General Assembly Sexual Misconduct Policy and its Procedures, pg. 13)

“Sexual Misconduct is the comprehensive term used in this policy and its procedures to include: 1) Child sexual abuse, as defined above (refers to Policy); 2) Sexual harassment, as defined above (refers to Policy); 3) Rape or sexual contact by force, threat, or intimidation; 4) Sexual conduct (such as offensive, obscene or suggestive language or behavior, unacceptable visual contact, unwelcome touching or fondling) that is injurious to the physical or emotional health of another; 5) Sexual malfeasance defined as sexual conduct within a ministerial (e.g. clergy with a member of the congregation) or professional relationship (e.g. counselor with a client, lay employee with a church member, presbytery executive with a committee member who may be a layperson, a minister, or an elder). Sexual conduct includes unwelcome sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature. This definition is not meant to cover relationships between spouses, nor is it meant to restrict church professionals from having normal, social, intimate, marital relationships; 6) Sexual abuse as found in Book of Order D-7.1100 (see Accuser/Victim).”