

Approved by Presbytery Sept. 10, 2005
---------------------------------------

## **SEXUAL MISCONDUCT POLICY WHITEWATER VALLEY PRESBYTERY**

### **A BRIEF OUTLINE OF GUIDING PRINCIPLES AND PROCEDURES**

1. The goal of this Policy is to prevent instances of Sexual Misconduct and to provide an appropriate response when an instance of Sexual Misconduct occurs within the Presbytery.
2. No sexual relationship between Clergy and their Parishioners or between Clergy and their staff is “consensual.” By virtue of their ordained office, Clergy are empowered in a manner that precludes equality in relationships with those to whom they minister. All Clergy have the responsibility to set appropriate boundaries in their relationships with others. Sexual expression with Parishioners or staff outside of the marriage contract is a violation of those boundaries and a breach of trust, and may also be a violation of the Book of Order. *See* Book of Order Rule G-6.0106b.
3. The actions of the Presbytery, its staff, committees, commissions, and others involved in situations involving Sexual Misconduct, shall be consistent with the Book of Order of the Presbyterian Church (U.S.A.).
4. All claims of Sexual Misconduct will be taken seriously. Initial reports, received from any source, in any form, will be responded to by the Presbytery through its Sexual Misconduct Response Team and the Committee on Ministry or their designees.
5. In most cases when there is an allegation of Sexual Misconduct, the person accused will be encouraged to take a voluntary leave of absence during the period of investigation and any proceedings that may follow. Such leaves of absence may be with or without pay and benefits, depending on the circumstances.
6. The Sexual Misconduct Response Team will arrange, in consultation with the Committee on Ministry, for the pastoral care of those persons involved, including the Victim and Victim’s family, the Accuser and Accuser’s family, the Accused and Accused’s family and the congregation and staff members of the Accused.
7. All Clergy, as a prerequisite for approval of a call within Whitewater Valley Presbytery, will be required to sign a statement of acknowledging that they have received a copy of this Policy, agree to abide by the Policy, and understand that the Presbytery will adhere to the Policy. Continuing members of Presbytery and Presbytery personnel will be required to sign a similar statement.
8. All clergy, continuing members of Presbytery and Presbytery personnel will be required to participate in Presbytery training for the prevention of Sexual Misconduct.
9. The Sexual Misconduct Response Team, the Committee on Ministry and the Presbytery will work with Churches to take steps to prevent and avoid incidents of Sexual Misconduct.
10. Copies of this Policy shall be distributed to members and staff of the Presbytery, those serving on Presbytery committees, commissions, task forces, Investigating Committees, the Committee on Ministry, and Initial Response Teams. The policy will be available to all Church members, any Accuser of Sexual Misconduct, the Victims of Sexual Misconduct and their families.

**PART I. POLICY AND PROCEDURES****1.0 DEFINITIONS**

- 1.01 “Accused” means the person against whom a claim of Sexual Misconduct has been made.
- 1.02 “Accuser(s)” means the person(s) 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 (*i.e.*, the “Non Victim Accuser”). The Accuser need not be a person with first hand knowledge of the alleged Sexual Misconduct. A person such as a family member, friend or colleague of the alleged victim may be the Accuser whose information initiates an inquiry.
- 1.03 “Child Sexual Abuse” means 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 never consensual and is always considered forced or coercive.
- 1.04 “Church” means a congregation or local church of the PCUSA.
- 1.05 “Clergy” means an ordained Minister of Word and Sacrament, a Commissioned Lay Pastor, and Certified Christian Educator, and includes without limitation a pastor, associate pastor, co-pastor, interim pastor, or designated pastor and ministers serving specialized ministries. As used in this Policy, “Clergy” includes those who are actively serving a call and those who are continuing or at large members of the Presbytery.
- 1.06 “High Risk Occupation” means a position that calls for a person to work in close contact with those who are vulnerable and less capable of protecting themselves, such as with children, elderly persons, those who are wholly or partially incapacitated, or counseling clients having emotional or personal problems.
- 1.07 “Initial Response Team” means the Executive Presbyter, the Chair of the Committee on Ministry, and the Chair of the Sexual Misconduct Response Team or their designees.
- 1.08 “Investigating Committee” means the committee formed by the Presbytery pursuant to Book of Order Rule of Discipline D-10.0201.
- 1.09 “Parishioner” means any member of the Church that the Clergy is serving, any person who is relating to the Clergy as a pastor or minister, and all individuals who are in a counseling relationship with the Clergy person. For Clergy serving in specialized ministries, “Parishioner” means any person receiving the benefit of the Clergy’s exercise of the office of ministry (such as by way of example and not limitation, patient/hospital chaplain, pastoral counselor/client or campus minister/student).
- 1.10 “PCUSA” means the Presbyterian Church (U.S.A.).
- 1.11 “Presbytery Personnel” means all staff employed by the Presbytery of Whitewater Valley and any person, whether Clergy or elder, serving in any official capacity for the Presbytery on any of its committees, councils, commissions, task forces, teams, or otherwise.
- 1.12 “Secular Law” means the body of municipal, state, and federal laws, whether civil or criminal, that relates to the matters addressed by this Policy.

- 1.13 “Sexual Harassment” means unwanted physical, verbal or visual sexual advances, requests for sexual favors, and other sexually oriented conduct, that is offensive or objectionable to the recipient. Sexual and sex-based Harassment may include, and is not limited to, requests for sexual favors; unwanted physical contact, including touching, pinching, or brushing the body; verbal harassment, such as derogatory or suggestive comments, slurs or gestures, sexual innuendoes, jokes of a sexual nature, sexual propositions, and threats; non-verbal conduct, such as display of sexually suggestive objects, poster, cartoons, pictures, drawings or clothing, leering, whistling, or obscene gestures; and acts of physical aggression, intimidation, hostility, threats, or unequal treatment based on sex (even if not sexual in nature). No person, male or female, should be subject to unsolicited or unwelcome sexual overtures or conduct, either verbal or physical. Sexual Harassment does not refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive, that is demeaning and that undermines the integrity of employment or faith-based relationships.
- 1.14 “Sexual Malfeasance” means conduct by Clergy or Presbytery Personnel directed toward Parishioners, their subordinate staff or others that involves unwanted physical contact and particularly contact involving the genitals, breasts, buttocks, or pubic areas; inappropriate hugging, kissing, neck rubs, massages, and so on; inappropriate discussion or comments of a sexual nature or sexually-oriented topics. Sexual Malfeasance is inappropriate activity. It does not include relationships between spouses, nor is it meant to restrict church professionals from having normal mutual, social, intimate or marital relationships outside of their relationships with Parishioners and their subordinate staff.
- 1.15 “Sexual Misconduct” is the comprehensive term used in this policy to mean any unwanted and nonconsensual activity between Clergy and Parishioner, and may include any and all of the following: Child Sexual Abuse; rape, sexual assault or battery, or any activity of a sexual nature deemed illegal under Indiana Secular Law; Sexual Abuse as that term is defined by Book of Order Rule D-10.0401c; sexual contact with another person by force, threat, intimidation, duress or other nonconsensual means; Sexual Harassment; Sexual Malfeasance; or viewing or use of matter of sexual or pornographic nature on Church or Presbytery premises or property or by means of use of a Church or Presbytery computer.
- 1.16 The Sexual Misconduct Response Team (“SMRT”) is a group of people elected by the Presbytery to aid it and the Committee on Ministry to respond quickly and objectively to reports of sexual misconduct and to assist the Presbytery and its member Churches in activities aimed at the prevention of Sexual Misconduct.
- 1.17 “Victim” means the person alleged to have been injured by Sexual Misconduct.

## **PART II. PRINCIPLES AND STANDARDS OF CONDUCT**

As God who called you is holy,  
be holy yourselves in all your conduct.

Tend the flock of God that is your charge,  
not under compulsion but willingly,  
not for sordid gain but eagerly,  
not lord it over those in your charge  
but be examples to the flock.

You know that we who teach  
shall be judged with greater strictness.  
Peter 1:15; 5:2; James 3:1, NRSV

- 2.01 The ethical conduct of all who minister in the name of Jesus Christ is of vital importance to the Church because it is through these representatives that an understanding of God and the gospel's good news is conveyed. Their manner of life should be a demonstration of the Christian gospel in the church and the world. *See* Book of Order, Rule G-6.0106.
- 2.02 Sexual Misconduct is a breach of trust and a violation of the roles Clergy and Presbytery Personnel are called upon to exercise. Sexual Misconduct calls into question the integrity, sensitivity, and fitness for office of any person who engages in such Misconduct.
- 2.03 Sexual Misconduct is a misuse of authority and power that is a breach of Christian ethical principles. It misuses a relationship of trust to gain advantage over another for personal pleasure in an abusive, exploitative, and unjust manner. Even if the Victim initiates or invites sexual content in his or her relationship with Clergy or Presbytery Personnel, it is always the responsibility and duty of the Clergy or Presbytery Personnel to maintain the appropriate role boundaries and prohibit a sexual relationship. When there is any structured relationship of superior/subordinate between two people, sexual expression outside of marriage between the two is an abuse of that relationship.
- 2.04 Sexual Misconduct takes advantage of the vulnerability of children and persons who are less able to act for their own welfare. Those serving in High Risk Occupations have a special duty to avoid Sexual Misconduct. Sexual Misconduct is contrary to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world. Sexual Misconduct violates the mandate to protect the vulnerable from harm.

## **PART III. RISK MANAGEMENT**

### **3.0 INTERFACE WITH OTHER RULES AND LAWS**

- 3.01 Where specific provisions of the Book or Order mandate a particular response to an allegation of Sexual Misconduct, those provisions will control. For example, the responsibilities of the Committee on Ministry (Book of Order Rules G-11.0502i-j) and of an Investigating Committee in Disciplinary process (Book of Order Rules D-10.0101 *et seq.*) will control the actions of such entities.

- 3.02 In some cases Secular Laws impose additional requirements (such as requirements for reporting of child abuse). In the case where there is a criminal law proceeding against the Accused under Secular Law, the Presbytery will follow the Rules of Discipline, to delay its proceedings until criminal law proceedings have been concluded. The Presbytery will also take note of any pending civil law proceedings, and in consultation with its attorney, will accord deference as appropriate to any such proceedings. In all cases where criminal or civil law actions are pending concurrently with procedures under this Policy, the SMRT and the Initial Response Team shall consult with the Presbytery's attorney and coordinate their actions accordingly and in a manner consistent with the Book of Order for adhering to or suspending ecclesiastical time requirements.

#### **4.0 EDUCATION AND TRAINING**

- 4.01 Implementation of this Policy requires the Presbytery to adopt and offer educational programs to address boundary issues, prevent Sexual Misconduct, assist Clergy in dealing with inappropriate sexual advances and/or false accusations of Sexual Misconduct, and provide training in pastoral and disciplinary response procedures.
- 4.02 The SMRT shall be trained for its task, and the Presbytery shall provide budgetary support for the SMRT.
- 4.03 Each member of Presbytery must attend at least one such educational session approved by the Presbytery and any member of Presbytery may be required to attend additional sessions when such attendance is recommended by the Committee on Ministry, an Administrative Commission appointed to deal with matters at a Church, as part of Censure and Restoration in a Disciplinary case, or when a change in applicable rules, laws or standards warrant additional educational sessions. Staff of the Presbytery shall attend such educational sessions as directed by the Executive Presbyter. Other Presbytery Personnel may be required to attend such training as a condition to service on a particular committee, commission, council, task force, team or group.
- 4.04 The SMRT will participate in training and educational events for Churches and make training and educational materials available to congregations to help Churches recognize and prevent Sexual Misconduct.
- 4.05 The Committee on Ministry and the SMRT will co-sponsor at least once every calendar year, a one-day training event in preventing Sexual Misconduct for pastors, youth ministry staff, Christian educators, Personnel Committees, and individuals responsible for the recruitment and training of volunteers. The SMRT will coordinate and lead the training. Other specialized training and education aimed toward prevention of Sexual Misconduct and appropriate responses to Sexual Misconduct may be offered for Churches and the Presbytery by the SMRT from time to time.
- 4.06 The SMRT will work with the Presbytery to urge Churches to adopt policies and procedures for preventing and reporting child abuse, including Child Sexual Abuse.
- 4.07 The SMRT may make additional recommendations to the Presbytery regarding matters of Sexual Misconduct, including, for example, recommendations regarding employment practices, education of Clergy, training and education materials for Clergy and the Presbytery, and so on.
- 4.08 Clergy who have participated in comparable training in another Presbytery may certify their attendance in such other training and seek a waiver from these requirements. The Committee on Ministry shall determine whether any waiver will be granted.

## **5.0 INSURANCE**

- 5.01 Because of the risk that the Presbytery or any of its Churches may be held liable for harm caused by Sexual Misconduct of Clergy or Presbytery Personnel, on any number of theories, including, for example, negligent hiring and supervision, appropriate insurance or indemnification policies should be obtained by the Presbytery and Churches.
- 5.02 The Presbytery and its Churches should work with their respective liability insurance carriers to help minimize the risk of Sexual Misconduct, and to obtain appropriate insurance coverage against potential liability.
- 5.03 Special insurance policy endorsements to cover specific exposures such as camps, day-care operations, pastoral counseling, shelters, or other outreach programs should be considered. It is also recommended that the Presbytery and Churches consider obtaining special endorsements specifically covering sexual abuse and molestation employment practices and so on. The Presbytery shall provide one or more models of such coverage to Churches.

## **6.0 EMPLOYMENT PRACTICES**

- 6.01 Risk of liability from negligent hiring or supervision of employees, including Clergy, should be minimized. In addition to the training and other provisions of this policy, the Presbytery and Churches should review their policies for employing paid and volunteer personnel with the intent of minimizing the risk of Sexual Misconduct or a claim of negligent hiring or supervision.
- 6.02 Accurate record keeping is an essential part of hiring and supervisory practices. The Presbytery office will maintain personnel files on all Clergy. The file will contain Pastoral Information Forms (“PIFs”), Executive Presbyter notes, reference responses, training attendance records, and other documents related to implementation of this Policy and the hiring of Clergy.
- 6.03 Pastor Nominating Committees are responsible for contacting references for prospective Clergy. A written record of conversations or correspondence with references shall be kept in the Clergy personnel file.
- 6.04 When Clergy desire to transfer from one position to another, the Presbytery will assume responsibility for contacting the Clergy’s previous employer through the Executive Presbyter or other authorized persons who shall report to the Committee on Ministry either that there had been no reported incidents of Sexual Misconduct, or that the Committee should inquire further into matters pertaining to Sexual Misconduct.
- 6.05 The person within the Presbytery authorized to give a reference from the Presbytery for Clergy is obligated to give truthful information regarding allegations, inquiries, and administrative or disciplinary action related to Sexual Misconduct of the applicant. Any such references shall be consistent with the information contained within the written reports and records of the Presbytery.
- 6.06 Applicants should be informed of negative comments regarding Sexual Misconduct received from their references and may be given an opportunity to submit additional references or to give other evidence to correct or respond to information obtained from a reference.
- 6.07 The provisions of this section 6.0 apply equally to Presbytery Personnel and all members of Presbytery regardless of employment status.

- 6.08 All Churches are encouraged to screen and supervise their paid staff and unpaid volunteers, who work with children, youth under age 18 or others in High Risk categories. Churches are encouraged to conduct a criminal record background check and/or use other means to check for past instances of Sexual Misconduct before allowing any person, paid or unpaid, to work in any High Risk position or with children or youth under age 18.

## **7.0 CONFIDENTIALITY AND MEDIA CONTACT**

- 7.01 Matters involving Sexual Misconduct should be treated with sensitivity and with consideration for the privacy interests of those involved. The Accused is presumed innocent until proven guilty. The Victim, the Victim's Family, the Accuser, the Accused's family, and the Church have interests in maintaining appropriate levels of confidentiality consistent with their interests and the stage at which a proceeding may be. After an adjudication of guilt, the Accused has no privacy interest in the matter, but others concerned may wish to continue to keep certain information private.
- 7.02 The privacy interests of any person should never cause the Presbytery or others to give false information in the context of employment matters or in any other context where there is an obligation of truthful and accurate disclosure.
- 7.03 Throughout the process of dealing with an incident of Sexual Misconduct, those involved should avoid discussing the matter with those who have no need to know information about the matter.
- 7.04 Particular individuals involved in an incident of Sexual Misconduct may have special confidentiality obligations, such as those in a counseling relationship, the attorney-client relationship and so on. Nothing in this policy is intended to countermand such special confidentiality obligations.
- 7.05 Nothing in this policy is intended to violate confidentiality requirements of the Book of Order or to violate requirements for the reporting of child abuse.
- 7.06 Inquiries from the public, the press or the media for information about a matter involving Sexual Misconduct shall be referred to the Executive Presbyter or his or her designee. If circumstances warrant it, the Initial Response Team may designate a public spokesperson. No member of the SMRT should respond to inquiries from the public, press or media.

## **PART IV. RESPONSE TO AN ALLEGATION OF SEXUAL MISCONDUCT**

### **8.0 PASTORAL RESPONSE TO THOSE INVOLVED IN AN INCIDENT OF SEXUAL MISCONDUCT**

- 8.01 The SMRT should take steps to minister to the needs of those persons most directly involved in an incident of Sexual Misconduct. The particular needs for pastoral care and counseling will vary in each instance, but it is the SMRT's responsibility to respond to the Victim and the Victim's family, the Accuser and the Accuser's family and the Church by offering pastoral care. In some cases, others, such as co-workers of the Accused, may also need pastoral care. In most cases, the Executive Presbyter or the chair of the Committee on Ministry will notify the chair of the SMRT of a pending matter and the need for pastoral care for one or more persons.

- 8.02 The needs of a Victim of Sexual Misconduct will vary and may be influenced by such factors as the degree or severity of abuse, the age and emotional condition of the Victim, personality dynamics, and the Victim's religious faith. Victims frequently suffer from feelings of guilt, shame, anger, mistrust, lowered self-esteem, unworthiness, alienation from God and the religious community, alienation from self or family. The SMRT should strive to be sensitive to the Victim's pain and need for healing, and strive to make appropriate pastoral care available. The SMRT is not responsible for providing professional counseling, but will act in a supportive role for those involved in an instance of Sexual Misconduct.
- 8.03 The SMRT will offer pastoral care for the Accused and the family of the Accused. The goal of church discipline is to build up the body of Christ, not destroy it; to redeem it, and not to punish it. *See Book of Order, Preamble to the Rules of Discipline.* The SMRT should strive to provide for pastoral care of the Accused and the family of the Accused with this goal in mind, and should not prejudge the Accused.
- 8.04 The SMRT may recommend to the Presbytery that it provide additional assistance to any person involved in an incident of Sexual Misconduct based on the specific circumstances in a particular case.
- 8.05 If the SMRT believes that professional counseling is needed for one of the persons involved in an instance of Sexual Misconduct, it may refer the that person to a professional counselor trained to deal with issues of Sexual Misconduct. The SMRT should maintain a referral list of counselors and counseling centers sensitive to issues of sexual misconduct, faith and spiritual needs.
- 8.06 The SMRT and the Presbytery will strive to be sensitive to the person's financial ability to pay for psychological counseling. The SMRT may refer persons in need of professional counseling to an agency that sets fees based upon client's ability to pay. Although the Presbytery and the Church are not legally obligated to pay for such counseling, they may offer to assist with the cost in some circumstances.
- 8.07 A Victim, the Accused or the Accuser or members of their families may decline offers of assistance from the SMRT out of anger, embarrassment, fear, guilt, shame, mistrust, lowered self-esteem, unworthiness, alienation from God and the religious community, alienation from self or family, or similar feelings. In some cases, these persons may perceive that offers of help are insincere or attempts at a cover-up. Even if the SMRT's first offer of pastoral care is refused, the SMRT shall make known to the person that there is a continuing offer to help. If the matter proceeds over an extended period of time or if there are further developments, such as the commencement of Disciplinary or legal proceedings under Secular Law, the SMRT should make known its offer to help is continuing. At the conclusion of any Secular Law proceedings against the Accused, the SMRT should again offer pastoral support to the Accused and the Accused's family and the Victim and the Victim's family.
- 8.08 The SMRT should remind the Victim, the Accuser and the Accused that they may choose to have someone accompany them throughout the process. When so requested, the SMRT will help identify a person to be available to these parties as a pastoral presence throughout the process. SMRT members will not be expected to act as an advocate for any person in a Disciplinary or legal proceeding.
- 8.09 Because of confidentiality and privacy issues, the SMRT will usually work with a few of its members in any particular instance, including to provide pastoral care to those involved. However,

the SMRT will not ask the person(s) providing support to the Accused or the Accused's family to also provide support to the Victim or the Accuser or their families, and *vice versa*. In some cases, such as when a pastor prominent in the Presbytery or Presbytery staff is the Accused, the Initial Response Team (defined below) may direct the SMRT to utilize resources from outside the Presbytery for pastoral support.

- 8.10 The SMRT should keep a complete and accurate record of all the offers for pastoral care, referrals, and any pastoral care provided. Such records shall be considered confidential. The chair of the SMRT will assist those providing such pastoral care in maintaining an appropriate record.

### **9.0 RESPONSE TO CONGREGATIONS**

- 9.01 The SMRT should be aware of the problems a congregation may experience following an accusation of Sexual Misconduct within the Church or involving Clergy serving the Church. The allegations may polarize the congregation, damage morale of staff and members, create serious internal conflicts and lead to loss of members and contributions.
- 9.02 When a Church's pastor is accused of Sexual Misconduct, the ramifications are severe and immediate. The SMRT will work to support of the efforts of the Committee on Ministry in providing for pastoral care and support for the congregation, including, for example, listening sessions, educational or training activities.
- 9.03 At the invitation of the Committee on Ministry, members of the SMRT may play a role in working to heal the damage to a congregation where there has been an incidence of Sexual Misconduct.

### **10.0 SPECIAL CIRCUMSTANCES OF THE NON VICTIM ACCUSER**

- 10.01 In many cases the Non Victim Accuser is the parent, guardian or other advocate for a child who is the Victim of Sexual Misconduct. In other cases, the Non Victim Accuser may be a colleague or friend of the Accused. When the Accuser is not the direct victim of the alleged Sexual Misconduct, the situation may be more complex, and special care shall be taken to respect the privacy and other interests of the persons involved.
- 10.02 In cases where the Victim is an adult, a Non Victim Accuser subject to this Policy should consider the following before making an allegation of Sexual Misconduct:
- a. The Non Victim Accuser should let the Victim know in advance that he or she is going to make a report of Sexual Misconduct, and should urge the Victim to make his or her own report.
  - b. When the Victim is unwilling or unable to make a report of Sexual Misconduct and a Non Victim Accuser proceeds to report, the Non Victim Accuser should take reasonable steps to respect the privacy interests of the Victim. In some cases, the Victim may want to keep his or her identity confidential.
  - c. When the Victim is unwilling to make a report of Sexual Misconduct and the Non Victim Accuser proceeds to report, the Non Victim Accuser should take reasonable steps to make certain that there is a reasonable factual basis for making the report. This does not mean that the Non Victim Accuser should initiate a private investigation of the matter or become a fact finder, but it does mean that the Non Victim Accuser should be sensitive to making

false charges that could damage the reputations and well being of the Accused, the Accused's family, the Victim, the Victim's family and the Church. In no case, shall Presbytery Personnel file allegations as a Non Victim Accuser without first consulting the Presbytery's attorney.

### **11.0 RECEIVING INITIAL REPORTS**

- 11.01 Reports of Sexual Misconduct will occur in a variety of ways. Initial reports may be oral or written. Because the Presbytery cannot control how a report will first be made or to whom a report may first be made, it is important that officers, employees, and persons highly visible to Church members and visitors understand how reports of Sexual Misconduct are channeled to the proper persons.
- 11.02 Reports of sexual misconduct should not be taken lightly or disregarded and should not be allowed to circulate without concern for the integrity, interests and reputation of the Accused, the Victim, the Accuser and the Church. Reports should be dealt with as matters of high concern at all times.
- 11.03 Since time is important, the Presbytery shall begin its response to a report of Sexual Misconduct as soon as possible. Delays should be avoided whenever and wherever possible in this process.
- 11.04 The first person(s) to learn of a report of Sexual Misconduct shall not undertake any investigation or inquiry alone or question either the Accuser or the Accused. If the Accuser is reluctant to talk to others, the person receiving the initial report should encourage the Accuser to speak out, lest the Church be unable to respond appropriately or on a timely basis,
- 11.05 The person receiving the initial report of Sexual Misconduct from the Accuser shall report the incident to the Executive Presbyter, the Chair of the Committee on Ministry, or a member of the SMRT. The Executive Presbyter, Chair of the Committee on Ministry and Chair of the SMRT shall consult and determine whether the report does involve an allegation of Sexual Misconduct and how to proceed based on the information received. As noted above, persons receiving a report of Sexual Misconduct shall report as required and permitted to appropriate civil or criminal authorities in a manner consistent with the Book of Order (*see* Book of Order Rule G-14.0801f concerning privileged information) and applicable Secular Law.
- 11.06 When an initial report of Sexual Misconduct has been received, and at least two of the persons who are the Executive Presbyter, the Chair of the Committee on Ministry, the Chair of the SMRT concur that if the facts as presented were proved to be true that an incident of Sexual Misconduct will have occurred, the SMRT will be asked to implement the procedures for Pastoral Response outlined in Part 10 above.
- 11.07 The Chair of the Committee on Ministry, the Executive Presbyter and the Chair of the SMRT (or their designees) shall be the "Initial Response Team" and shall work together to handle the response from this point forward at least until such time as an Investigative Committee is formed under the Rules of Discipline (Book of Order Rule D-10-0103) or proceedings under Secular Law begin. The Initial Response Team shall make contact with the Accused, the Accuser, and the Clerk of Session if the Accused is pastor of a Church or the employer of the Accused if the Accused is Clergy working in a non Church setting, and the Initial Response Team shall formulate an initial response plan appropriate under the circumstances. The nature of the report from the Accuser, whether the report involves current or ongoing activity versus past activity, whether minor children are involved, whether the alleged Sexual Misconduct involves

acts of touching or violence, and other considerations will inform the Initial Response Team as they formulate an initial response plan. The Initial Response Team shall meet with the Session (or other employer when the Accused is not called to a Church) as early as practicable.

- 11.08 In any case where the Executive Presbyter, the Chair of the Committee on Ministry or the chair of the SMRT is the Accused, is otherwise personally involved with situation or is unavailable, the other two, in consultation with the Committee on Ministry, may appoint one or more other members of the PCUSA to act as the Initial Response Team. Such persons may be from another Presbytery.
- 11.09 In most cases, it will be advisable for the Accused to take an immediate leave of absence from his or her position, particularly if the position involves ministry in a Church or in a High Risk Occupation. The Session (or other employer) may be willing to place the Accused on an immediate leave of absence, which may be a paid leave, if the circumstances warrant it. The Accused is strongly encouraged to take advantage of the opportunity for an immediate leave of absence, whether paid or unpaid. In no circumstances shall an accused be permitted to remain in a position that creates a continued risk of immediate physical harm to another person. The Committee on Ministry may remove any Clergy from any setting if there is a risk of bodily harm to another and all Clergy must agree to this as a condition of their continued employment in this Presbytery. Any Presbytery Personnel may be similarly removed by the Personnel Committee of Presbytery, and all Presbytery Personnel agree to such as a condition of their continued employment by the Presbytery. In the event that the Accused, the Session or the Accused's employer are unwilling or unable to agree to any leave of absence, the Initial Response Team, the Committee on Ministry and the Presbytery may take all appropriate steps under the Book of Order for more permanent removal of the Accused from his or her position. In reaching an agreement as to a leave of absence, the Initial Response Team may invite the Accused to meet with others such as the Personnel Committee of a session, the Accused's supervisor, and so on.
- 11.10 Responsibility for payment of the Accused while on a paid leave of absence shall normally be the responsibility of the congregation. If such arrangements cannot be made, the Initial Response Team may recommend that the Presbytery contribute to the support of the family of the Accused during a leave of absence.
- 11.11 The Initial Response Team may assist in providing for the pastoral needs of the Church congregation, including pulpit supply. The SMRT shall assist the Initial Response Team as requested.
- 11.12 The Initial Response Team should consult with the Presbytery's attorney as soon as possible, in matters involving Sexual Misconduct. Legal counsel will assist the Initial Response Team and the SMRT in responding to the legal issues involved in an instance of Sexual Misconduct, including, by way of example and not limitation, the duty make reports of the allegations under Secular Law consistent with Book of Order Rule G-14.0801f (privileged information) and issues of Clergy/Penitent confidentiality, personnel matters, and so on. When there are proceedings under Secular Law, the SMRT, the Initial Response Team and the Presbytery should be kept informed about the situation, and legal counsel may assist in that process.
- 11.13 At the conclusion of a matter involving allegations of Sexual Misconduct, the SMRT shall prepare a report for the Committee on Ministry and the Presbytery that shall summarize the issues, the responses made and the lessons learned. The SMRT should obtain information from the Initial Response Team for this report. This report shall be prepared in a manner that respects the legitimate privacy interests of those involved and is consistent with confidentiality requirements.

The purpose of the report is to document how the situation was handled in order that the Presbytery may learn from the experience and respond accordingly in the future.

- 11.14 Throughout the time that it is dealing with a matter of Sexual Misconduct, the Presbytery and the Committee on Ministry shall have all the authority, rights, and responsibilities prescribed to them by the Book of Order.

### **12.0 Proceeding to a Disciplinary Case**

- 12.01 If the Initial Response Team reasonably believes there is a factual basis for the allegations, the Victim and/or Accuser shall be counseled to commence a Disciplinary case against the Accused. The Accuser shall be asked to make a signed, written report of the accusations. If the Victim or Accuser is unwilling to commence a Disciplinary case, and the Initial Response Team reasonably believes a Disciplinary case should be brought, any one of them may commence the case under the provisions of the Book of Order. The Stated Clerk shall receive such reports and proceed according to the Rule of Discipline. The Accuser or Victim need not have the concurrence of the Initial Response Team to start a Disciplinary case. In some cases, an Accuser may bring a Disciplinary case directly, and if so, the role of the SMRT and the Initial Response Team will be determined by the Book of Order and the Investigating Committee.
- 12.02 If the Accused has admitted to Sexual Misconduct, the Book of Order Rules of Discipline regarding self accusations shall be followed.
- 12.03 If a Disciplinary case is not commenced (as for example, because the matter involves issues other than Sexual Misconduct, or the time for bringing a Disciplinary case has lapsed), or until such time as one is commenced, the Initial Response Team and/or the Committee on Ministry shall respond to the situation. The SMRT may be involved as appropriate.
- 12.04 Once a Disciplinary case has been commenced and an Investigating Committee has been formed pursuant to Book of Order Rules D-10.0103 and D-10.0200, the Investigating Committee shall take charge of responding to the allegations, and it shall follow the procedures in the Book of Order Rules of Discipline.
- 12.05 When alternative forms of resolution are used (*see* Book of Order Rule D-10.0202g), the Investigating Committee may involve members of the Initial Response Team and/or the SMRT as appropriate. The SMRT will continue to fulfill its responsibilities for pastoral responses as set forth above in Part 10. The SMRT shall keep the Investigating Committee informed of its activities and provide advance notice wherever possible of its activities.
- 12.06 The Initial Response Team may continue to work with the Church, its Session, other Clergy at the Church (and/or other employer of the Accused when the Accused is not serving a Church) while a disciplinary case is pending. The Initial Response Team should keep the Investigating Committee informed of its activities and provide advance notice whenever possible of its activities.
- 12.07 The Initial Response Team and the SMRT have no authority to negotiate any form of censure or discipline for the Accused under the Rules of Discipline. However, at the conclusion of a Disciplinary case, the Committee on Ministry and the SMRT may be asked by the Church or the Presbytery to address the Accused's needs for reconciliation with the Church or similar matters.

**13.0 False Accusations**

- 13.01 If the Initial Response Team reasonably believes that the accusation is false or, after Disciplinary proceedings, the accusations are found to be false, it shall work with the Accuser and the Accused to reach an appropriate resolution under the circumstances. Any member of the PCUSA who has been accused of Sexual Misconduct may request an inquiry for vindication under Book of Order, Rule D-9.0101.
- 13.02 Even if the Initial Response Team believes an accusation is false, the Accuser may proceed under the Book of Order, Rules of Discipline to commence a disciplinary case.
- 13.03 Making a false accusation of Sexual Misconduct is a serious offense, and may result in bringing disciplinary charges. Churches are urged to implement child protection and similar policies to minimize the risk that Clergy and Church personnel will be falsely accused of Sexual Misconduct.

H:\KRISTY\COM\Sexual Misconduct Policy 09-05 APPROVED.DOC