

Revised as of March 2014

Policy on Preventing and Responding to Sexual Misconduct
_____Presbyterian Church of, _____KS

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

--1 Peter 1: 15

I. Guiding Principles

The purpose of this policy is 1) to educate and prevent; 2) to empower and obtain justice; and 3) to provide compassion and promote healing.

Scripture and our faith in Jesus Christ call us to standards of responsible conduct in all of life, including sexual behavior. The _____ Presbyterian Church of _____, Kansas affirms that all forms of sexual misconduct are sinful and contrary to God's will for humanity.

All allegations of sexual misconduct, whether verbal or written, will be taken seriously and will be dealt with promptly.

All those who serve the Church within our congregation in either a temporary or permanent relationship (including clergy, staff, ruling elders, deacons, Christian educators, and volunteers) are expected to adhere to Christian ethical principles in their sexual conduct and in the exercise of authority and power. The Church and its extended ministries are to be seen as safe places in the community, places where it is known that sexual misconduct is not tolerated. This is part of our Christian witness.

II. Scope of Application

The persons covered by this policy include all those subject to the jurisdiction, control, and/or supervision of the church in the performance of their duties and services to the congregation and community.

Administration of this policy is the responsibility of the following positions and committees within the church: the Pastor, Clerk of Session, Session, and _____Committee(s).

III. Definitions

This policy uses some terms and definitions contained in the current edition of the Constitution of the PC(USA). The most recent edition of the constitution shall be the authoritative source for those terms and definitions.

A. Types of Sexual Misconduct

- 1. Sexual Misconduct** is the comprehensive term used in this policy to include, but is not limited to, child sexual abuse, sexual abuse of another person, sexual harassment, and production or distribution of pornography, as defined under Kansas law, KSA § 21-3516: "possessing any visual depiction, including any photograph, film, video picture, digital or computer generated image or picture, whether made or produced by electronic, mechanical or other means where such visual depiction of a person is shown or heard engaging in sexually explicit conduct with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender, the child or another" (www.kslegislature.org/legsrv-statutes/getStatuteInfo.do). It is never

appropriate to view or distribute pornography on or with church/presbytery property, or at a church/presbytery-sponsored event.

Sexual misconduct does not include non-abusive relationships between spouses. This policy is not intended to restrict church professionals from having normal, mutual, intimate relationships outside of the ministerial or professional context.

2. **Child Sexual Abuse** includes, but is not limited to, any contact or interaction between a child and an adult when the child is being used for the sexual stimulation of the adult person or of a third person. The behavior may or may not involve touching. Sexual behavior between a child and an adult is always considered forced whether or not consented to by the child. In the PC(USA), the sexual abuse definition of a child is anyone under age 18. Mutual consent is NOT POSSIBLE when one of the parties is a child.
3. **Sexual Abuse of Another Person**, as defined by the Book of Order (D-10.0401c), includes “any sexual offense involving sexual conduct in relation to 1) any person under the age of 18 years, or over the age of 18 years without the mental capacity to consent, or 2) any person when the conduct includes force, threat, coercion, intimidation, or misuse of ordered ministry or position.” Lack of mental capacity may be a temporary incapacity due to the influence of a narcotic or intoxicating substance, or impaired capacity due to psychological, emotional, or spiritual vulnerability (e.g., due to grief resulting from a significant loss). Misuse of office or position refers to sexual conduct committed by one while functioning in relationship to the victim within the context of a clergy, lay leadership, professional or volunteer role. Mutual consent is NOT POSSIBLE within this context. Wherever relationships exist involving clergy, staff, Church officers, Christian educators, inquirers and candidates, commissioned ruling elders, and/or volunteers, it remains the responsibility of these persons to maintain appropriate boundaries and to decline to engage in a sexual relationship.
4. **Sexual Harassment** is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - a. submission to such conduct is made either explicitly or implicitly a term or condition of employment, continued status in an institution, or continued participation in activities of the Church;
 - b. submission to, or rejection of, such conduct is used as the basis for employment decisions;
 - c. such conduct has the purpose or effect of unreasonably interfering with work performance by creating an intimidating, hostile, or offensive working environment;
 - d. an individual is subjected to unwelcome sexual jokes, unwelcome or inappropriate touching, or display of sexual visuals that insult, degrade, and/or sexually exploit men, women, or children; or
 - e. misuse of technology and media results in sexual harassment or abuse of another person (e.g., social networking, texting or emailing suggestive messages and images to persons with whom one has a ministerial relationship. When this includes a person under the age of 18, it is child abuse--see www.kslegislature.org/legsrvstatutes/getStatute-Info.do, State of Kansas

Statute KSA § 21-3516). Personal privacy cannot be presumed when using church-owned or personal equipment within the context of ministry.

B. Other Definitions

1. **Allegation** is a written statement or claim that an offense may have occurred (*BoO* D-10.0101).
2. **Accused** refers to the person against whom a claim of sexual misconduct is made.
3. **Accuser** refers to the person reporting sexual misconduct by a person covered by the policy. The accuser may or may not be the victim of alleged sexual misconduct. A person such as a family member, friend or colleague of the alleged victim may be the accuser whose information initiates the inquiry.
4. **Administrative Leave** is the temporary removal from office of an accused individual, during which period the person is entitled to personal compensation, but not professional benefits such as, but not limited to, continuing education, sabbatical or mileage.
5. **Advocate** is the person who, at the request of the victim or the accuser, may accompany the victim or accuser at each and every conference with the investigating committee, the prosecuting committee, and the session or the permanent judicial commission. The role of the advocate is to provide support and consultation. In the case of alleged misconduct of a teaching elder, advocates are assigned/provided by the PNK to be the victim or accuser's liaison (see D -10.0203a-b). **Session may also request support from the PNK.**
6. **Alternative Form of Resolution** is a process in which the parties to a disciplinary case determine, with the aid of a professionally trained and certified third-party mediator or arbitrator, whether any agreement can be reached concerning any charges which may be filed. The process is ordinarily initiated after an investigating committee has determined there is probable cause to believe a disciplinary offense has been committed and can reasonably be proved, but before the filing of any charges, and requires the written consent of all parties (see D-10.0202i; D-2.0103).
7. **Church**, when spelled with the first letter capitalized, refers to the Presbyterian Church (U.S.A.); when spelled with the first letter in lower case, it refers to local churches. The word "congregation" is used loosely for members and participants.
8. **Employee** (member or non-member) is the comprehensive term used to cover individuals who are hired or called to work for the church or other institutions or entities formally related to the Church or one of its constituent bodies.
9. **Inquiry** is the term used in the Rules of Discipline of the Book of Order to describe the process of determining whether charges should be filed based upon allegations of an offense received by a council of the Church (see D-10.0201-.0204).
10. **Investigating Committee** (as defined in D-10.0201ff) is the body charged with performing the investigation/inquiry on behalf of the presbytery. This committee determines whether

charges should be filed. The Investigating Committee is appointed after an allegation has been received.

11. **Liaison** refers to the person who relates to the victim, or the accused, or the congregation throughout the inquiry process and any subsequent proceedings. It is the role of the liaison to determine needs and deploy resources to those to whom the liaison has been assigned. The liaison may also serve as an advocate (see definition above) if called to do so. The out-of-pocket expenses of the person serving as liaison will be covered by the presbytery.
12. **Mandated Reporter** is a person required by state law to report any and all suspected incidents of child abuse, including child sexual abuse, that come to their attention. See Kansas State Statutes 38-2223 <www.kslegislature.org/legsrv-statutes/getStatuteInfo.do>).
13. **Offense** is defined by the Book of Order (D-2.0203b) as “any act or omission by a member or a person in an ordered ministry of the Church that is contrary to the scriptures or the Constitution of the Presbyterian Church (U.S.A.)” Behavior that violates this policy may be cited in a formal complaint or allegation of sexual misconduct, which accuses a member or officer of a disciplinary offense, and is filed with the Stated Clerk of the presbytery.
14. **Presbytery of Northern Kansas** (or PNK) is the adjudicatory body responsible for investigating and disciplining cases of ministerial misconduct within its bounds.
15. **Response** is the action taken by a council of the Church or other entity when a report of sexual misconduct is received.
16. **Sexual Misconduct Response Committee (SMRC)** is a body constituted by the PNK to facilitate the process of responding to allegations of sexual misconduct by a person covered by this policy (the SMRC’s structure and function are detailed in Section VIII.B of the Sexual Misconduct Policy of the Presbytery of Northern Kansas.)
17. **Staff** refers to a person who is either an employee or a volunteer who performs functions on behalf of this church or one of its entities.
18. **Victim** is the term used to identify the person(s) injured by sexual misconduct.
19. **Volunteer** refers to a person who provides services to the church, or organization related to the church, without financial or material remuneration. For purposes of this policy, volunteers are treated the same as employees.
20. **Secular Law** is the body of municipal, state and federal laws, and is often referred to collectively as civil and criminal law.

IV. Preventive Practices

The following series of procedures are intended as measures to prevent and eliminate any form of sexual misconduct within the congregation.

A. Distribution of Policy

1. Policy distribution and collection of Acknowledgment of Receipt documents will be primarily, but not necessarily or exclusively, the oversight of the Session or one its committees:

- to all volunteers;
- to all active elders;
- to all staff;
- PNK will be responsible for distribution of its policy to teaching elders and CREs.

2. It is the responsibility of the Session to communicate this policy to, and implement this policy with, volunteers who provide services for the church or its entities.

B. Signed Acknowledgment of Receipt

All who receive this document (identified in IV.A.1-2) are required to sign a written acknowledgment indicating that each has received, read, understands, and agrees to conduct her/himself in accordance with this Policy (see Appendix). This signed acknowledgment shall be kept in the church office.

C. Disclosure

An applicant for any position within the church who deliberately provides false or misleading information, or withholds relevant information, from the application form shall be denied consideration. If discovered after the fact, this shall be grounds for termination.

D. Hiring Practices

1. The council(s) with oversight for the position being applied for is/are responsible for making sure references are checked.
2. If a reference(s) provides negative information regarding the applicant and sexual misconduct, the applicant shall be informed of such and given opportunity to submit a response to the information and/or submit additional references.
3. A written record of correspondence from references should be kept in the teaching elder/CRE or employee's personnel file at the church office; such files will be kept confidential.
4. If false or misleading information is given by the applicant, or relevant information is withheld, the applicant may be eliminated from consideration.

E. Education

1. The pastor is required to attend triennial training through the Presbytery of Northern Kansas, or in the case of a pastor of another denomination to attend equivalent training.
2. The session will conduct an annual review of this policy for all volunteers working with youth.

F. Liability and Insurance

The church shall purchase insurance from a provider which covers liability, including specific coverage for sexual misconduct and sexual harassment, for employees, staff, church officers, and all volunteers.

G. Implementation

1. Record Keeping

The Session or a designated committee shall maintain a confidential personnel file on every employee, including pastors.

2. Pre-screening Applicants

Part of pre-employment screening should include specific questions related to discovering previous complaints of sexual misconduct. Such questions should include, but are not limited to, the following:

- a. Has a civil or ecclesiastical complaint ever been filed against you, alleging sexual misconduct by you?
- b. Have you ever resigned or been terminated from a position for reasons relating to allegations of sexual misconduct by you? If so, indicate the date, nature and place of these allegations, and the name, address, and phone number of your employer at the time.
- c. Have you been required to receive professional treatment, physical or psychological, for reasons related to sexual misconduct by you? If so, please give a short description of the treatment, including the date and nature of treatment, place, and name-address-phone number of the treating physician or other professional.

Pre-employment screening could also include a formal background check by the KBI or another agency.

V. Reporting

A. Initial Reports

1. **Importance of Prompt Reporting:** Allegations of sexual misconduct should be made as promptly as possible. The ability to respond quickly and justly to sexual misconduct is related in part to the opportunity to receive allegations and to gather evidence soon after the occurrence. This Policy, however, recognizes the special problems sometimes related to discovery and recognition of certain forms of sexual misconduct. For example, child sexual abuse may not be recognized until the victim of abuse reaches the age of awareness or recognition, or fear may deter a victim from coming forward. Therefore, reports of certain forms of sexual misconduct may be delayed for many years.
2. **Statute of Limitations:** Other than in the case of sexual abuse as defined in D-10.0401c, charges of sexual misconduct must be filed no later than three years from the commission of the offense or one year from the forming of an investigating committee. “For instances of sexual abuse of another person, the three year time limit does not apply. Charges may be brought regardless of the date on which an event is alleged to have occurred.” (D-10.0401b)
3. **Awareness of Reporting Channels:** Reports of sexual misconduct may occur in a variety of ways. Because a council of the church or other entity cannot control to whom the accuser of sexual misconduct will first speak, it is important that officers, employees, and persons highly visible to Church members and visitors understand how reports of incidents are channeled to the proper persons.

4. **Importance of Confidentiality:** Allegations of sexual misconduct should never be taken lightly, or disregarded and allowed to circulate. The well-being, integrity, and reputation of the accuser, the accused, and the Church are always foremost. Allegations should always be dealt with as matters of the highest confidentiality.
5. **Notice of Opportunity to File Written Statement:** The first person to learn of an incident of alleged sexual misconduct should encourage the accuser to speak to a higher authority, lest the Church be unable to respond because no one is able to give firsthand information. He or she should not seek to investigate or corroborate on his or her own. A report should be directed to the Stated Clerk of the PNK when the accused is a teaching elder or CRE; the Stated Clerk will then notify the COM liaison for that pastor's congregation and the presbytery's Sexual Misconduct Response Committee. When the accused is not a teaching elder or CRE, the Clerk of Session of the congregation will be notified, and consult with the pastor and the PNK before taking any action. In all cases, and particularly in cases where the accuser is hesitant to talk to a higher authority, the person receiving the initial report should advise the accuser of the opportunity to submit a written report.

B. Written Statements

1. **Filing a Written Statement When Victim Is Unwilling or Lacks Standing:** A session member who receives information from any source that an offense may have occurred may submit a written statement of the alleged offense (see D-10.0102b). That written statement should be directed to the Stated Clerk when the accused is a teaching elder; and to the Clerk of Session of the congregation when the accused is a non-minister. A Session member who receives information of an alleged offense should submit a written statement when the victim of the alleged offense is not a person under the jurisdiction of the PC (USA) and therefore does not have standing to file a written statement directly.

C. Mandatory Reporting Duties of Teaching Elders, Ruling Elders, and Deacons under the *Book of Order*.

1. **Ministers:** A teaching elder/CRE shall report to ecclesiastical and civil legal authorities knowledge of harm, or the risk of harm, related to the sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of a confidential communication (as defined in the *Book of Order* at G-4.0301, (2) she or he is not bound by an obligation of privileged communication under law, or (3) she or he reasonably believes that there is risk of future physical harm or abuse.
2. **Ruling Elders and Deacons:** Under the *Book of Order* (see G-4.0302), ruling elders and deacons and certified Christian educators are also required to report such sexual molestation or abuse of a minor or an adult who lacks mental capacity when they gain knowledge of the sexual molestation or abuse in the course of service to the church.

D. Reporting Requirements under Kansas Law

In addition to *Book of Order* requirements, Kansas law for reporting sexual molestation or abuse of a child under the age of 18 years is set forth in Kansas Statute 38-3223, which can be accessed at <www.kslegislature.org/legsrv-statutes/getStatuteInfo.do>.

E. PCUSA Hotline

The PC (USA) has a sexual misconduct hotline, staffed by the sexual misconduct ombudsperson. The number is 1-888-728-7228, ext. 5207 or 1-502-569-5207. The purpose of this hotline is to report events, even if the victim is not ready to pursue a formal complaint at this time. The caller has the ability to control the information and how it is used. This can be especially helpful for those who want more information about the process, or who want a historical record kept in the event that s/he decides to pursue a complaint at a later date. If the person accused of the violation is named, then it could be helpful in the event that another victim files a complaint against the same person. The ombudsperson can be a listening ear as well as resource as to options and process. The important point is that the caller controls the information.

F. Immediate Consideration of Administrative Leave in Certain Cases of Alleged Sexual Abuse

Administrative leave for an accused teaching elder/CRE is determined by the presbytery as governed by the *Book of Order* and its own Sexual Misconduct Policy. Session determines the necessity for a leave of absence in the case of other staff.

G. Request to Refer

Session may request, and presbytery recommend, to refer a matter to the Presbytery Permanent Judicial Commission when an alleged offense by a member involves matters or questions for which it is desirable or necessary that the Presbytery decide the case (see D-4.0100ff).

VI. Response Procedures

Any incident of sexual misconduct necessitates a pastoral response, as well as a judicial, or disciplinary, response. Both are key elements in accomplishing the goals of justice and compassion. For specific details of the PNK response, see the “Policy on Sexual Misconduct,” at www.pnks.org.

A. Pastoral Response

In responding to accusations of sexual misconduct, the Church should seek healing and assure the protection of all persons. Where possible and within the limits of this policy, the privacy of persons should be respected. The *Book of Order* assures all persons of fair procedures in the disciplinary process, and all persons involved should be informed of these procedures at the outset.

A fundamental principle in responding to an accusation of sexual misconduct is to ensure that actions taken promote and enhance the process of reconciliation and healing by effectively supporting those affected, without compromising or disrupting any investigation by civil authorities and due process, or inquiry or judicial process that may be undertaken by the governing body.

B. Judicial Response

1. Procedure for a judicial response is detailed in the Rules of Discipline in the *Book of Order*.
2. Authorized communications concerning status of accusation during investigation or disciplinary proceeding

- a) **General Rule of Confidentiality:** Prior to the filing of charges, the *Book of Order* protects the confidentiality of the identity of an accused and of the allegations of a disciplinary offense by limiting the disclosure of information to the congregation to the facts that an allegation has been received and reported appropriately. (D-10.0103)

C. Responsibilities of Session

1. The session should become familiar with the Presbytery's policy and procedures for sexual misconduct, know the procedures for filing a complaint, and should develop a process for handling potential allegations. Teaching Elders/CRE's who have not attended triennial training should consult with the PNK Stated Clerk to determine the process.
2. The session should continually affirm the congregation as a place of protection, trust and justice for all persons. The session should be open to hearing any complaint of sexual misconduct.
3. The session should present expectations of behavior clearly to members, employees and volunteer workers, as well as to officers of the church.
4. The session should be made aware that pastors may be the objects of unwelcome personal or sexual attention, or sexual harassment or misconduct from members of the congregation. The session should be open to hearing any complaint of sexual misconduct which pastors may bring against members. The session should clearly present expectations of behavior toward the pastor to members of the church.

VII. Response Scenarios

- A. When the teaching elder/CRE is accused**—the Clerk of Session is ordinarily the person to whom the accusation should be reported and who distributes and receives the response form(s). The clerk is responsible for
- Notifying the Stated Clerk of the PNK, who will advise about other necessary notifications, and provide a means to call a meeting of the session without the stated moderator (the pastor).
 - Notifying the appropriate civil authorities;
 - Collecting response forms and maintaining confidentiality.
 - Being the spokesperson for the congregation, if the PNK so designates.
- B. When anyone else is accused**—anyone aware of sexual misconduct should report it to the teaching elder/CRE and fill out a response form. The teaching elder/CRE will be responsible for
- Notifying the appropriate civil and ecclesial authorities;
 - Notifying the Session and bringing options to them;
 - Notifying the Stated Clerk of the PNK;
 - Collecting response forms and maintaining confidentiality;
 - Being the spokesperson for the congregation.

Acknowledgment of Receipt

I hereby acknowledge that on **(date)** _____, I received a copy of the Policy on Preventing and Responding to Sexual Misconduct of the _____ Presbyterian Church, of _____, Kansas, dated _____; that I have read the policy; that I understand its meaning; and that I agree to conduct myself in accordance with the policy. I understand that this acknowledgment shall be retained in my personnel file if I am an employee.

Signature

Name

Relationship to _____ Presbyterian Church:
(circle one)

Pastor

Church Officer

Employee

Volunteer

Date

Report of Suspected Sexual Misconduct

_____ Presbyterian Church of _____, KS

(Each witness should provide a separate, signed report, providing as much of the information requested as possible. Note that this is a front-and-back form. In the case of a child or youth victim, reporters should use the “Suspected Abuse Incident Report” from the PNK *Child and Youth Protection Policy*.)

Reported by:

Name

Address

Telephone

E-mail address

Date of Alleged Incident: _____ **Time:** _____

Place of Alleged Incident: _____

Person Suspected of Misconduct:

Name

Address

Telephone

E-mail address

Position

Other Person(s) involved (give information for each one separately and identify the person as a victim or an eyewitness—you may attach another page as needed)

Name

Address

Telephone

E-mail address

If Presbyterian, congregation of membership

Describe the incident(s) of suspected sexual misconduct, including date(s), time(s) and location(s). Provide as many details as you can, attaching pages as needed.

Other information which may be helpful to the investigation:

What action has been taken at this writing?

Report submitted to: _____ **Date received** _____

To my knowledge, this report is accurate and true:

Signed _____

Date: _____ **Time:** _____