

**Presbytery de Cristo
Policy and Procedure on Sexual Misconduct¹
Approved by the Session of
The Holy Way Presbyterian Church on April 16, 2013**

FOREWORD

Presbytery de Cristo (“the Presbytery”) has developed this Policy and Procedure on Sexual Misconduct (“this policy”) in an effort to further the peace, unity and purity of the church through the prevention, remediation and, when appropriate, disciplinary action responding to sexual misconduct within the church. Attention has been given to setting guidelines of ethical behavior as well as providing enforcement standards consistent with Reformed tradition and secular law. Requirements and protections guaranteed under The Form of Government and The Rules of Discipline were particularly noted in the development of this policy. This policy should be helpful in assuring consistency of practice and action within the Presbytery, provide an information base for educating both ministers and laity, and assist local congregations in the development of their personnel policies.

Distribution: Copies of this policy shall be made available to all entities and congregations of the Presbytery. This policy is intended as guidance for the Presbytery and its churches, councils, and related entities and, if properly implemented by them, for use by church members, church officers, employees and volunteers. This policy shall be made available to persons who accuse others of misconduct, including those who are or claim to be victims of sexual misconduct and their families.

This policy is grounded in the instructions of conduct given us in Scripture:

**. . . as he 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, as God would have you do it—
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
will 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 Church² 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 world” (G-2.0104a).

¹All constitutional citations are to the 2011/2013 *Book of Order*.

²Church when spelled with the initial letter capitalized refers to the Presbyterian Church (U.S.A.). Church when spelled with the initial letter in lowercase refers to local or specific churches and congregations.

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CHAPTER ONE

THEOLOGICAL PREMISE

- 1.01 *Do not be conformed to this world, but be transformed by the renewing of your minds, so that you may discern what is the will of God—what is good and acceptable and perfect. (Romans 12:2)*
- 1.02 This policy is set in the framework of what it means to be a sexual person in Christian faith and a servant in the church. Our sexuality as a dimension of our whole selves is to be offered to God. In the expression of sexual desires we are called to holiness. God values sexuality as good, blessed and purposeful, as an expression of love and for the procreation of children. Sexuality is a gift to be celebrated. We are called to be responsible in the use of our sexuality and respect each other.
- 1.03 The centerpiece of this policy is that all people—men, women and children—are created by God in the image of God and therefore have dignity and worth. From this belief in the sacredness of our physical beings, we understand and declare that every person has the right to sexual and bodily integrity. As human beings and especially as Christians, we are to respect one another in body, mind and spirit. This respect maintains boundaries between individuals. Boundaries, which when linked but not crossed, create Christian community. Under the guidance of God’s spirit, such community encourages trust, openness and compassion as well as accountability and responsibility.
- 1.04 The gifts and requirements of individuals serving in ordered ministries—deacons, ruling elders and teaching elders (also known as ministers of the Word and Sacrament)—are set forth in G-2.0104a and b. Leadership within the Christian community, whether clergy or lay, is a sacred trust to be exercised with faithfulness and love. Sexual misconduct by Christian leaders is a violation of this trust, betraying its victim(s)³, damaging the abuser and threatening the credibility of the Church itself.
- 1.05 Because of the inherent power associated with positions of leadership (paid or voluntary), the responsibility for maintaining appropriate boundaries rests with those trusted as leaders. This responsibility is rooted in both Christian and, for clergy, professional ethics, and should be taken seriously. Those who are called to tend Christ’s flock should conduct themselves in a manner that nurtures and protects the vulnerable⁴. Consequently, the “good of the church” can never be served by overlooking an abuse of power and trust such as that involved in sexual misconduct.
- 1.06 Therefore, the response to an allegation of sexual misconduct must be a fair inquiry that takes the alleged violation and all persons involved seriously. Above all else, the inquiry must seek to determine the truth, for only truth can give birth to justice. The goal of justice and compassion—the goal of this process—is the restoration of Christian communi-

³Victim(s) is the term used to identify the person(s) allegedly injured by sexual misconduct as defined below in 2.02. A victim may include an individual, council or other entity of the Presbytery, session, congregation or family.

⁴Vulnerable individuals are those persons who are unable to protect themselves from abuse, neglect or exploitation by others because of a physical or mental impairment. For this policy, all persons under 18 years of age are considered vulnerable.

ty, the healing of broken boundaries and injured persons, and the rehabilitation of God's people.

- 1.07 All those who serve the Church within this Presbytery, in either a temporary or permanent relationship, including all individuals serving in ordered ministries, employees,⁵ staff, and volunteers⁶, are expected to adhere to Christian ethical principles in their sexual conduct and in their 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 to the community. Therefore, **the leadership of any group using church premises in the Presbytery for their activities is also subject to this policy.**
- 1.08 The Presbytery's commitment is to model the example of Christ and to be rooted in the love of Christ in all relationships. For any Christian to betray trust by the grave transgression of sexually abusing another, whether child or adult, is to deny his or her own Christian identity as well as to deny to the one abused the witness to the risen Christ in the world. Such betrayal will be a grave injury to the one abused and a violation of faithfulness to Christ. Because of the serious consequences of sexual abuse, the Church must make every effort to ensure that sexual abuse does not occur within its jurisdiction. When such abuse does occur, the Church must make a clear and just response.
- 1.09 **Presbytery de Cristo affirms that all forms of sexual misconduct are sinful and contrary to God's will for humanity.**

⁵Employee is the comprehensive term used to cover individuals who are hired or called to work for the church for salary or wages.

⁶Volunteer is the term used for those who provide services and includes persons elected or appointed to serve on boards, committees, ministry teams and other groups. For purposes of this policy, volunteers are treated the same as employees.

CHAPTER TWO

SEXUAL MISCONDUCT POLICY

- 2.01 **STATED POLICY:** It is the policy of Presbytery de Cristo of the Presbyterian Church (U.S.A.) [“the PCUSA”] that all teaching elders, ruling elders commissioned to pastoral service, ruling elders, deacons, church members, non-member employees and volunteers serving the church in any capacity are to maintain the integrity of the pastoral, professional and volunteer relationship at all times. Sexual misconduct is not only a violation of the principles set forth in scripture, but also of these relationships. It is never permissible or acceptable for individuals serving in an ordered ministry, church members, employees or volunteers to engage in sexual misconduct.
- 2.02 **DEFINITION:** *Sexual Misconduct* is the comprehensive term used in this policy to include the following:
- A. *Child Sexual Abuse*, which 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 gratification or 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. For purposes of this policy, the age of adulthood is 18 as defined by the laws of the States of Arizona and New Mexico. In the PCUSA, the sexual abuse definition of a child is anyone under the age of eighteen years.
 - B. *Sexual Abuse*: “Sexual abuse of another person is any offense involving sexual conduct in relation to (1) any person under the age of eighteen years or anyone over the age of eighteen 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” (D-10.0401c).
 - C. *Sexual Harassment*, which is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Such conduct constitutes sexual harassment when:
 - Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment or their continued status in an institution; and/or
 - Submission to or rejection of such conduct by an individual is used as the basis for employment status decisions affecting such individual; and/or
 - Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile or offensive environment based on the declared judgment of the affected individual; and/or

- 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.

D. *Rape or sexual contact by force, threat or intimidation.*

E. *Sexual Conduct* that is injurious to the physical or emotional health of another, including conduct such as offensive, obsessive or suggestive language or behavior, unacceptable visual contact, and unwelcome touching or fondling.

F. *Sexual Malfeasance*, which is defined for this policy as any physical contact that has been declared unwelcome by the recipient. This includes, but is not limited to, the broken trust resulting from genital contact (contact with the breasts, buttocks or pubic area) within a ministerial relationship (e.g., clergy with a member of their congregation); professional relationship (e.g., counselor with a client); lay employee with a church member; or presbytery executive with a committee member who is also a teaching or ruling elder. This definition is not meant to include relationships between spouses, nor is it meant to restrict church professionals from having normal mutual, social, intimate⁷ or marital relations.

G. *Abuse of the Counseling Relationship*: Counseling for the participants needs to be open to talk about sexual matters but only within clear boundaries that avoid personal involvement. It is Abuse of the Counseling Relationship for the counselor to permit sexual discussions to move beyond the clinical into the interpersonal realm. It is never acceptable for the counseling relationship to include a sexual relationship.

H. *Misuse of Technology*, which is the use of technology that results in sexually harassing or abusing another person, including texting or emailing suggestive messages and images to persons with whom one has a ministerial relationship. It is never appropriate to view pornography on church property. When this includes a person under the age of eighteen years, it is considered child sexual abuse. There is never an expectation of personal privacy when using technological equipment owned by a church or church entity or within the context of ministry.

2.03 **STATED PURPOSES:** The Presbytery adopts this policy on sexual misconduct for the use of all councils, *i.e.*, the presbytery and sessions, and other entities⁸ of the Church within the Presbytery. The purposes of this policy are:

A. To set and enforce standards of ethical behavior reflected in our ordination standards and consistent with Reformed tradition as well as federal and state law (G-2.0104a and b).

B. To provide procedures for inquiry and effective response to allegations of sexual misconduct and for the protection of persons in the Church.

C. To serve as a guide for councils of the Church under The Form of Government and The Rules of Discipline (G-3.01 and D-3.0000).

⁷Intimate is defined as very close association, familiarity or warm friendship.

⁸Entity is the term used to refer to any program or office managed by a board, committee or other body whose membership has been elected by a council.

- D. To recommend personnel policies for the administration of employer/employee relationships within the councils and other entities of the Presbytery.
- E. 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 nurture of the spiritual, emotional and physical well-being of all God's people.
- F. To demonstrate pastoral concern for all parties involved in allegations of sexual misconduct.
- G. To further the peace, unity, and purity of the Church through justice and compassion.

2.04 **BASIC PRINCIPLES:** The basic principles of conduct guiding this policy are as follows:

- A. Sexual misconduct is a violation of the role of pastors, persons in ordered ministry, employees, volunteers, counselors, supervisors, teachers and advisors of any kind who are called upon to exercise integrity, sensitivity and caring in a trust relationship. It breaks the covenant to act in the best interests of parishioners, clients, co-workers and students.
- B. Sexual misconduct is a misuse of authority and power that breaches Christian ethical principles by misusing a trust relation to gain advantage over another for personal pleasure in an abusive, exploitative and unjust manner. If the parishioner, student, client, or employee initiates or invites sexual content in the relationship, it is the responsibility of the pastor, counselor, person in ordered ministry or supervisor to maintain the appropriate role and prohibit a sexual relationship.
- C. Sexual misconduct takes advantage of the vulnerability of persons who are less powerful to act for their own welfare, including children. 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.
- D. Any sexual relationship between (1) a teaching elder or a ruling elder commissioned to pastoral service and (2) a parishioner, client, child, student or employee is presumed to be inappropriate.

2.05 **CHURCH RESPONSE TO ALLEGATIONS:**

In responding to allegations of sexual misconduct, members, persons in ordered ministry, and employees of the church should seek healing and ensure the protection of all persons. Where possible, the privacy of persons should be respected and confidentiality of communications should be maintained.

In responding to allegations of sexual misconduct, members, person in ordered ministry, and employees of the church should seek to uphold the dignity of all persons involved, including persons who are alleging harm, persons who are accused of sexual misconduct, and the families and communities of each.

The PCUSA has jurisdiction over its members, persons in ordered ministry, and employees such that if a member, a person in ordered ministry, or employee is alleged to have

committed an offense against Scripture or the PCUSA Constitution, the Church has the duty to inquire into the allegations and, if the allegations are proven, to correct the behavior of the member, person in ordered ministry, or employee and ensure the safety of others in the community. Allegations of sexual misconduct are always considered allegations of offense against Scripture or the PCUSA Constitution that trigger the disciplinary processes of the PCUSA set forth in the *Book of Order*. In the case of an active non-member who is employed or volunteers with the church, the individual will be covered by the procedures of the written personnel policies of the appropriate council or entity.

If the person accused of sexual misconduct is no longer a member, person in ordered ministry or employee of the PCUSA, but the conduct occurred while the person was acting on behalf of the PCUSA, the Church does not have jurisdiction to correct the behavior, but it does have a duty to hear the allegations of offense and to take measures to prevent future occurrences of harm. The appropriate council may appoint an administrative committee or commission to hear the allegations of sexual misconduct. The council may also take measures to prevent future occurrences of harm through education and policy.

2.06 REPORTING REQUIREMENTS

- A. *Reporting Sexual Misconduct*: A person needing to report that a member, person in ordered ministry, employee, or volunteer of the PCUSA has committed sexual misconduct is encouraged to seek guidance from a PCUSA teaching or ruling elder regarding filing the report.

Congregation: If the person who is accused of committing sexual misconduct is a member, ruling elder, deacon, volunteer, or employee of a church, the report of allegations should be made to the moderator, clerk of session, or chair of the personnel committee. If the accused is a member or person in ordered ministry of the church, the church will respond by using the procedures set forth in The Rules of Discipline. If the accused is a nonmember employee or volunteer, the church will respond by using procedures set forth by the session.

Presbytery: If the person who is accused of committing sexual misconduct is a teaching elder or ruling elder commissioned to pastoral service, the report of allegations should be made to the presbytery pastor/stated clerk. If the report of allegations is placed in writing, the Presbytery will respond by using the procedures set forth in The Rules of Discipline. If the person who is accused of committing sexual misconduct is a volunteer or nonmember employee of the Presbytery, the report of allegations may be made to any of the staff or volunteers of the Presbytery. The Presbytery will respond by using procedures set forth by this policy or the bylaws of the Presbytery.

- B. *Receiving Reports of Sexual Misconduct*. (Also see Chapter Four of this policy.)

The allegations may come from persons who have or who do not have a formal relationship with the PCUSA and may be made to a variety of persons in ordered ministry or leaders within the PCUSA. It is the duty of these persons in ordered ministry to see that any allegation of sexual misconduct is reported appropriately, keeping in mind the mandatory reporting requirements for allegations of child sexual abuse.

The person receiving the initial report of allegations of sexual misconduct shall analyze

the relationship of the person accused of sexual misconduct with the PCUSA and shall make sure that the allegations of offense are filed with the council having jurisdiction over the person accused. This may be done by the person alleging harm or by any member of the PCUSA.

If the report is made orally, the person receiving the report of allegations should request that the person making the report of allegations place it in writing. A report of allegations of sexual misconduct in writing from a member of the PCUSA alleging another member or person in ordered ministry of the PCUSA committed an offense must be acted on according to The Rules of Discipline. If a clerk of session or the presbytery pastor/stated clerk receives a report of allegations in writing from a nonmember of the PCUSA alleging another member or person in ordered ministry of the PCUSA committed sexual misconduct, the report also should be acted on according to The Rules of Discipline. If the person who makes the report is unwilling or unable to place it in writing, any member of the PCUSA may make the written statement that will automatically trigger The Rules of Discipline.

- C. *Mandatory Reporting of Child Sexual Abuse.* All persons covered by this policy shall report knowledge of child sexual abuse to the employing entity, supervisor, or appropriate council representative. All persons should be informed of and must comply with state and local laws regarding incidents of actual or suspected child sexual abuse. These reports should be made within a reasonable time of receiving the information.

The provisions of the *Book of Order* referenced below attempt to balance conflicting moral duties for persons in ordered ministry in the PCUSA.

For teaching elders and ruling elders commissioned to pastoral service, the provision strives to balance the duty to protect children from future harm with the duty to hold in confidence any information revealed to them during the exercise of pastoral care in any ministry setting as defined in G-4.0301.

For ruling elders, deacons, and certified Christian educators, the provisions strive to balance the responsibilities of those in ordered ministries to protect children from harm and any secular duty those in ordered ministry may have to hold in confidence any information revealed as a result of a secular relationship such as attorney/client, counselor/client or physician/patient. The secular duties will be a function of secular law and may vary from state to state.

All teaching and ruling elders, ruling elders commissioned to pastoral service, deacons and certified Christian educators are required to report knowledge of child abuse to the civil and ecclesiastical authorities according to the *Book of Order*. The *Book of Order* requires that

Any member of this church engaged in ordered ministry and any certified Christian educator employed by this church or its congregations, shall report to ecclesiastical and civil legal authorities knowledge of harm, or risk of harm, related to the physical abuse, neglect, and/or sexual molestation or abuse of a minor or an adult who lacks mental capacity when (1) such information is gained outside of confidential communication as defined in 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. (G-4.0302)

Reporting only to ecclesiastical authorities is never a substitute for or an alternative to reporting to civil legal authorities in those circumstances when reporting to civil legal authorities is required by law.

2.07 RESPONDING

The appropriate council or entity response will vary according to the relationship of the PCUSA with the person who is accused of sexual misconduct. Church members and those in ordered ministry are subject to inquiry and discipline (censure and correction) under the *Book of Order*. Non-church member employees and volunteers are subject to oversight and correction by the council or entity that employs them.

A. Accused Covered by Book of Order

When an allegation of offense of sexual misconduct has been received by either a clerk of session or the presbytery pastor/stated clerk, the clerk of session shall report to the session and the presbytery pastor/stated clerk shall report to the Presbytery's Ministry for Leadership, as the case may be, that an offense has been alleged and that the council shall proceed according to the procedures set forth in The Rules of Discipline. The session or the Ministry for Leadership shall then appoint an investigating committee to inquire into the allegations. The investigating committee must promptly begin its inquiry into the allegations. Delay may cause further harm to the victim and/or the accused.

Councils and entities must cooperate with civil authorities in an investigation of child sexual abuse or other criminal sexual misconduct. Church disciplinary proceedings cannot interfere with a criminal investigation by civil authorities and may have to be suspended until civil procedures are completed.

The session of a particular church has original jurisdiction in disciplinary cases involving members, ruling elders, and deacons of that church, with each church having jurisdiction only over its own members.

The Presbytery has original jurisdiction in disciplinary cases involving its members who are teaching elders or ruling elders commissioned to pastoral service. The Presbytery may dissolve a pastoral relationship (G-3.0301a and c). However, Presbytery may only place a teaching elder on administrative leave when allegations of child abuse have been received and the Presbytery has followed the *Book of Order* procedures to conduct its risk evaluation to determine whether or not a teaching elder member accused of child abuse should be placed on administrative leave (D-10.0106). It is recommended that the permanent judicial commission members who will conduct this risk evaluation based upon the allegations and a hearing should also take into account secular legal advice.

When a person in ordered ministry renounces jurisdiction, the clerk of session or the presbytery pastor/stated clerk shall report the renunciation at the next meeting of the appropriate council and shall record the renunciation in the minutes of the council. The status of any pending charges may be shared with the council at that time.

B. Accused Not Covered by Book of Order

When a council or entity receives an accusation of offense of sexual misconduct against a nonmember employee or volunteer, the procedural response of the council or entity

will be guided by the written personnel policies of the council or entity. Usually the council or entity will have a personnel committee that will be responsible for the inquiry. If a council or entity does not have a personnel committee, it may appoint either a committee or administrative commission for the review of the allegation.

The committee or commission that will respond to the allegation of offense of sexual misconduct will do the following:

1. Determine whether or not the allegation gives rise to a reasonable suspicion of sexual misconduct by the accused.
2. If so, gather additional information necessary to make a decision about correcting the behavior.
3. Determine any remedies, including limiting ministry, suspension or termination, as necessary and advisable under the circumstances. If the accused is a member of another denomination, that denomination shall be notified of the allegations and the response.
4. Inform the victim and the accused of the remedy.
5. In all cases, the personnel committee shall prepare a written report, which shall be included in the permanent personnel file of the accused. The accused shall be allowed to attach any written statements to said documents, also for permanent inclusion in the permanent file.

All procedures shall follow the guidelines set forth by the council, employing agency, or entity.

C. Council or Entity Record Keeping

The council or entity should keep detailed records of its actions and minutes of its deliberations and its conversations with the victim, the accused, and other parties involved, correspondence, and copies of the reports received from committees or commissions. Such records will be kept confidential as far as possible. In Case #208-6, the General Assembly Permanent Judicial Commission interpreted The Rules of Discipline to say that a council or entity may share the contents of inquiry reports with other councils or entities of the PCUSA when necessary. The clerk of the council or director of the entity will maintain the records while the inquiry is in process.

False accusation is a violation of trust just as sexual misconduct is a violation of trust and is to be addressed with the same seriousness and concern for all concerned.

The protection of children is a priority. Persons having reasonable cause to suspect sexual abuse of a child shall report it to the appropriate secular agency for immediate investigation—it is the law. This is in addition to the disciplinary process that the Church will follow as set forth in this policy.

CHAPTER THREE

IMPLEMENTATION

3.01 DISTRIBUTION AND IMPLEMENTATION OF POLICY: This policy shall be distributed within the Presbytery by the presbytery pastor/stated clerk and implemented as follows:

- A. All teaching elders and ruling elders commissioned to pastoral service shall be given copies of this policy and shall be required to sign the acknowledgment of its receipt. (See the “Acknowledgment of Receipt and Agreement to Comply” form in Appendix C.) The signed acknowledgment shall be retained and filed in the office of the presbytery pastor/stated clerk and a copy of the signed acknowledgment shall be provided to the clerk of session of the church where the teaching elder or commissioned ruling elder serves. The clerk of session in turn shall ensure that the signed acknowledgment is maintained in the personnel files of that church.
- B. Presbytery employees shall receive this policy as a supplement to the employee handbook and shall be required to sign the acknowledgment of its receipt. (See the “Acknowledgment of Receipt and Agreement to Comply” form in Appendix C.). The signed acknowledgment shall be retained and filed in the office of the presbytery pastor/stated clerk.
- C. This policy shall be furnished to each clerk of session in the churches of the Presbytery. Each session shall be responsible for internal distribution of this policy to employees, volunteers and members of the congregation. Each session shall adopt this policy or an alternative sexual misconduct policy and shall cause to be recorded in its minutes a statement that said policy has been adopted. Subsequently and annually, each session shall cause to be recorded in its minutes a statement that this policy or an alternative sexual misconduct policy continues in force at that church. It is recommended that the adopted policy be included in the church’s manual of administrative operations.
- D. This policy shall also be posted on the presbytery’s web site and thus made available to all church members and the public.

3.02 JURISDICTION: The council or entity responsible to handle allegations of sexual misconduct will vary according to the status of the person accused of sexual misconduct. Church members, teaching elders and ruling elders commissioned to pastoral service are subject to inquiry and discipline under D-3.0101.

- A. **Teaching Elders and Ruling Elders Commissioned to Pastoral Service:** The Presbytery has oversight responsibility and original jurisdiction in disciplinary cases involving teaching elders and ruling elders commissioned to pastor service (G-2.0501, G-3.0301, D-3.0101b). Preliminary and investigative procedures are covered in Chapter X of The Rules of Discipline. Therefore, the Presbytery shall handle disciplinary cases consistent with the *Book of Order*, The Rules of Discipline, this policy and other appropriate guide-

lines. As for teaching elders who are members of this presbytery but who are employed by a different presbytery or synod or General Assembly entity, response to allegations of sexual misconduct by such teaching elders will be made by the employing entity under its personnel policies. Such teaching elders shall also be subject to The Rules of Discipline as members of this presbytery.

- B. **Church Members:** The session has original jurisdiction in disciplinary cases involving members of the church, each having jurisdiction only over its own members (D-3.0101a). A church member who is accused of sexual misconduct away from the congregation to which he or she belongs may be prosecuted by secular authorities but may only be removed from membership by the session. When a church member is accused of sexual misconduct, the disciplinary or alternative forms of resolution (D-2.0103) process is the same as that described for teaching elders and found in Chapters X through XIII of The Rules of Discipline. The clerk of session shall appoint an investigating committee to make an inquiry, decide whether to make charges, and prosecute. (For Investigating Committees see Chapter X of The Rules of Discipline.) The session will sit as a court and try the case. The person accused has a right to counsel, to present witnesses, and to cross-examine witnesses.
- C. **Alternative Resolution:** To meet the goals of Church Discipline the investigating committee may initiate if it deems appropriate, and with the written consent of all parties involved, alternative forms of resolution conducted by professionally trained and certified mediators and arbitrators. The purpose of this process is to achieve justice and compassion for all parties through mediation and settlement (D-1.0103, D-2.0203, G-3.0201c).
- D. **Accused Renounces Jurisdiction:** Jurisdiction in judicial process ends when a person in ordered ministry or member renounces the jurisdiction of the Church (in the form of a written resignation from the Church). Should the accused in a disciplinary case renounce the jurisdiction of the Church, the clerk of session or presbytery pastor/stated clerk shall report to the respective council both the renunciation and the status of the matter at the time it was received (D-3.0105, G-2.0405).

3.03 **PREVENTIVE ACTIONS:** The Presbytery and its churches are responsible to take actions to reduce the potential for sexual misconduct. As required by G-3.0106, each council of the Presbytery shall adopt and implement a sexual misconduct policy. Careful screening of applicants, education, security, and common sense work assignments all play an important role in reducing the likelihood of offenses occurring. Good record keeping and annually reviewing liability insurance coverage are necessary.

- A. **Applicants for Employment:** Pre-employment screening includes specific questions related to previous complaints of sexual misconduct.
 - i. **Teaching Elders:** The Presbytery reviews Sexual Misconduct Information of the PCUSA Personal Information Form when interviewing persons seeking ministerial calls. The office of the presbytery pastor/stated clerk is responsible for making reference checks through the Synod Executive, General Presbyter, or other authorized persons to ascertain whether those persons have any history of sexual misconduct. The presbytery pastor/stated clerk reports to the Committee on Ministry either that there was no reported sexual misconduct, or that the committee should inquire into reported sexual misconduct. A

written record of conversations and correspondence with references will be kept in the teaching elder/employee personnel file.

- ii. **Employees/Volunteers:** The employing session, council or entity is responsible for contacting references for prospective employees or volunteers. A written record of the conversations and/or correspondence with references should be kept in the employee's personnel file. This policy applies to volunteers as well as employees. Often no requirement for screening and application is applied to volunteers. It is recommended that local churches exercise careful due diligence in screening and supervising unpaid volunteers. If the volunteer is new or unknown to the church, some informal checking may be wise before allowing the volunteers to work in high-risk positions such as youth advisor, children's workers, lay counselors, Boy or Girl Scout leaders, or camp counselors. In positions such as these it is recommended there be a six-month delay in using volunteers who are new to the church.
- iii. Applicants shall be informed of negative comments regarding sexual misconduct and shall be given opportunity to submit additional references or to give other evidence to correct or respond to harmful information obtained from a reference check.

B. Outgoing References: Any person within the Presbytery authorized to give a reference is obligated to give truthful information regarding complaints, inquiries, and administrative or disciplinary action related to sexual misconduct by the applicant.

C. Education: The Presbytery has a commitment to offer, provide resources for, and to publicize educational opportunities to prevent and respond to sexual misconduct in the church. Presbytery staff, Response Coordination Team members (see 4.04 of this policy), teaching elders and ruling elders commissioned to pastoral service, ministerial candidates, and all persons and committees working with the issue, including local churches, are encouraged to read the resources provided and attend sexual misconduct prevention seminars. All teaching elders and commissioned ruling elders commissioned to pastoral service shall attend educational programs on this policy. (See Appendix A.)

D. Work and Assignment Decisions: Presbytery, local churches and entities should be concerned that work conditions or assignments are made with the idea of promoting safety and reducing risk. Considerations as to security of persons working alone, gender-to-gender assignments, and multiple paid employees/volunteers working with children and youth are good examples.

E. Employment Record Keeping: Accurate record keeping is an essential part of hiring and supervision practices. Every council and entity should maintain a personnel file on every employee as well as for all teaching elders and ruling elders commissioned to pastoral service. The file should contain, to the extent applicable, the application for employment, employment questionnaires, reference responses, and documents related to this policy.

Note: In the case of a sexual misconduct charge involving another adult, when the accused is vindicated of the charge, or the charge has been dropped because it was found to have no substance, the personnel file of the accused shall contain no reference to the charge. Such charge shall

not become a part of any reference, by church or council personnel for future employment.

- F. **Liability Insurance:** A council or entity may be held liable for harm caused by the sexual misconduct of a teaching elder, ruling elder commissioned to pastoral service, employee or volunteer based upon a number of legal theories such as negligent hiring, recruitment and/or supervision. Councils and entities must take such potential liability into consideration when establishing hiring, recruitment and supervisory practices.

Councils 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 persons in ordered ministry, employees and volunteers. The standard insurance policy must be enhanced by endorsements to cover specific exposures such as camps, schools, day-care operations, shelters or outreach programs.

The Presbytery and all churches and entities shall obtain an endorsement to their general insurance policy specifically covering sexual abuse and molestation. General liability insurance may provide for legal defense expenses and judgments in civil suits brought against the organization, its officers, directors or employees. Ordinarily an insurance company has the duty to defend officers and representatives of an organization. However, insurance companies normally do not defend an "employee" or cover intentional harm.

CHAPTER FOUR

RESPONSE PROCEDURE

- 4.01 **REPORT PREPARATION:** Reports of alleged sexual misconduct are not to be taken lightly or disregarded or allowed to circulate without concern for the integrity and reputation of the victim, the accused and the Church. Reports should be dealt with as matters of highest confidentiality, before and after they have been submitted to appropriate authorities as outlined below.
- A. Reports must be submitted in writing and be filled out as completely as possible. It must contain a clear narrative and allege facts that, if proven true, would likely result in disciplinary action (D-10.0100). The report form (“Report of Suspected Sexual Misconduct”) required for the Presbytery and recommended for the individual churches of the Presbytery, is found in Appendix C.
 - B. The first person to learn of an alleged incident of sexual misconduct shall not undertake an inquiry alone or question either the victim or the accused unless the incident is divulged in the process of pastoral care, counseling, or a therapy session with that person. If the victim is hesitant to talk to “higher authorities,” the person receiving the initial report has a special responsibility to encourage willingness to speak with higher authority, lest the Church be unable to respond because no one is able to give first hand information.
- 4.02 **REPORT SUBMISSION:** Reports of suspected sexual misconduct may occur in a variety of ways. Because a council or other Presbytery entity cannot control to whom the victim of sexual misconduct will first speak, it is important that all those in ordered ministry, employees, and persons highly visible to church members understand how reports of incidents are channeled to the proper persons. The allegations may come from persons who have or who do not have a formal relationship with the PCUSA and may be made to a variety of persons in ordered ministry within the PCUSA. It is the duty of those in ordered ministry to see that any allegation of sexual misconduct is reported appropriately, keeping in mind the mandatory reporting requirements for allegations of child abuse (see 2.05C of this policy).
- A. Presbytery de Cristo: An initial written Report of Suspected Sexual Misconduct accusing a person or persons on Presbytery de Cristo staff; a teaching elder or ruling elder commissioned to pastoral service; or employees of other entities of the Presbytery will be submitted to the presbytery pastor/stated clerk, who shall undertake those actions set forth in Paragraphs 4.03 and 4.04 of this policy.
 - B. Local Church: The initial written Report of Suspected Sexual Misconduct accusing a member of a local church shall be submitted to the moderator or clerk of session. Should

the moderator receive the report, he/she will deliver it to the clerk of session for action set forth in Paragraph 4.03 of this policy.

- 4.03 **FOLLOW-ON ACTIONS:** Upon receipt of a written Report of Suspected Sexual Misconduct the clerk of session or the presbytery pastor/stated clerk without undertaking further inquiry, shall:
- A. Report to the relevant council only that an offense has been alleged without naming the accused or the nature of the alleged offense (D-10.0103).
 - B. Refer the Report of Suspected Sexual Misconduct immediately to an investigating committee of the council having jurisdiction over the member (D-10.0103, D-10.0200). For further guidance concerning disciplinary procedures see Chapter X of The Rules of Discipline.
 - C. **Refer any Report of Suspected Sexual Misconduct that involves children or vulnerable adults to secular authorities in accordance with state and local laws.**
- 4.04 **RESPONSE COORDINATING TEAM:** The Presbytery's Ministry for Leadership shall appoint a Sexual Misconduct Response Coordinating Team (RCT), which shall be a standing or continuing ministry team of the Presbytery. The RCT will be comprised of no less than 3 or more than 5 members. The RCT will perform the duties set forth below and in Appendix B of this policy. It shall make its report(s) to the presbytery pastor/stated clerk of Presbytery.
- A. It is the responsibility of the RCT to respond quickly and objectively to reports of sexual misconduct involving teaching elders and ruling elders commissioned to pastoral service. The RCT shall work with and be available to the victim, the accused, the co-workers of the parties, and if a teaching elder or ruling elder commissioned to pastoral service is named by the report, and if requested by the relevant session, with the church involved. The RCT shall maintain strict confidentiality except for their written report(s) to the presbytery pastor/stated clerk.
 - B. The RCT will be trained to respond to allegations of sexual misconduct and to recognize and identify the issues involved in sexual misconduct, sexual harassment, and child sexual abuse. RCT members should be familiar with the legal, administrative, and disciplinary procedures of the Presbytery as well as the PCUSA. RCT team members are exempt from being summoned as witnesses in an ecclesiastical judicial trial. The Presbytery recognizes that service on a RCT constitutes "good cause" as defined in D-7.0204 and D-11.0203.
 - C. The RCT should normally consist of professionals with experience or training in counseling, psychology or legal issues relating to sexual abuse/misconduct. They may request resource persons to serve in specific situations.
 - D. The investigating committee shall name the RCT as a "Need to Know Group". (See Appendix B)
- 4.05 **MEDIA RESPONSE:** In order to minimize prejudice in any allegation yet to be decided, all inquiries from the media regarding an allegation of sexual misconduct must be directed to:

- A. **Presbytery:** In cases being addressed by the Presbytery all media inquiries will be directed to the presbytery pastor/stated clerk of Presbytery. The victim, the accused, advocates for the accused or the victim, members of the RCT, the church or employing entity, members of the Presbytery, or any others known to have information about the allegations shall be urged not to address questions from the media other than to refer the media to the presbytery pastor/stated clerk or his/her designated spokesperson.
- B. **Local Church:** In cases being addressed by an investigating committee or session all media inquiries will be directed to the moderator or the clerk of session. All others known to have information about the allegations including the accused, victim, or church members shall be urged not to address questions from the media other than to refer media representatives to the moderator or the clerk of session or to their designated spokesperson.

4.06 **STATUTE OF LIMITATIONS:** The ability of a church or the Presbytery to respond promptly and justly to sexual misconduct is related in part to the opportunity to receive allegations and to gather evidence soon after the occurrence. This policy, however, recognizes the special problems sometimes related to discovery and recognition of certain forms of sexual misconduct.

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

The following statutes of limitations are those to be used by the Presbytery, its churches and entities in regards to allegations of sexual misconduct:

- A. **Sexual Abuse⁹ of Another Person:** In accordance with The Rules of Discipline, there is no statute of limitations for filing charges alleging sexual abuse (D-10.0401b).
- B. **All Other Sexual Misconduct Allegations:** “No charges shall be filed later than five years from the time of the commission of the alleged offense, nor later than one year from the date the investigating committee was formed, whichever occurs first” (D-10.0401), except as provided at D-10.0401a.

⁹Sexual Abuse is defined at 2.02B of this policy and at D-10.0401c.

APPENDIX A

EDUCATION AND TRAINING

The Presbytery's Ministry for Leadership shall ensure that appropriate education, training and information are made available to a broad base audience within the Presbytery. Education efforts will be different on a group-by-group basis. The depth of courses, seminars or briefings addressing the issues of sexual misconduct will be tailored to the duties and responsibilities of the group being trained. Church members may only need to be aware of the policy and its reporting procedures. Others in ordered ministry or leadership positions will need more in-depth information in order to carry out their functions. Members of investigating committees, judicial commissions, the response coordination team, and the committee on ministry need to be completely familiar with a broad range of topics related to the subject.

The purpose of education and training on sexual misconduct and this policy is to increase the level of awareness and create an internal knowledge base that both reduces the possibility of sexual misconduct and ensures confident, complete and competent response to any reports of inappropriate behavior. There is a need to educate and train a wide variety of persons. Unfortunately education and training often happens in response to actual cases of sexual misconduct. The Presbytery intends that all councils, churches, and other entities be as proactive as possible in offering education so they will be able to respond out of competence rather than out of ignorance and irrationality when confronted with allegations of sexual misconduct.

The Presbytery's Ministry for Leadership in coordinating the education program envisioned herein shall call on resources within the Presbytery, including the RCT to prepare and conduct the education program.

- A. Groups Requiring Sexual Misconduct Education and Training. Persons to be included in the education and training efforts are:
 1. Presbytery staff
 2. Investigating Committees
 3. Committee on Ministry
 4. RCT members
 5. Teaching elders and ruling elders commissioned to pastoral service, ministerial candidates, newly ordained and new clergy to the Presbytery
 6. Clerks of session and other church members serving in ordered ministries
 7. Professional and non-professional church staff
 8. Local church members

- B. Responsibilities of Employing Entities. Copies of this policy and procedure will be furnished to all full-time, part-time, temporary, and interim staff and volunteers not only of the Presbytery and churches but also of any hiring committee, commission or entity within its bounds. It is expected that an acknowledgment of the policy will be required and a copy of such acknowledgment will be retained in the person's permanent or temporary file.

- C. Education and Training Topics: There are many resources available for use in presenting information concerning the prevention of and response to sexual misconduct. These include videos, books and publications, training curriculums on sexual abuse and material for creating training seminars. Depending on which group is being trained, appropriate topics listed below will be included in sexual misconduct briefings, education workshops and training sessions.
1. The Presbytery de Cristo Policy and Procedure on Sexual Misconduct
 2. Basic information regarding risk management. (See Paragraph 3.03 of this policy.)
 3. *Book of Order* disciplinary procedures
 4. Information on currently available resources concerning sexual misconduct in the church
 5. In-depth training on sexual misconduct and its ramifications for all people involved
 6. Patterns in congregations that have experienced sexual misconduct and how to help congregations heal
 7. Legal updates, and general information on civil and criminal laws concerning sexual misconduct.

APPENDIX B

RESPONSE COORDINATING TEAM

- A. **PURPOSE:** The purpose of the Presbytery's Response Coordinating Team (RCT) is to ensure that an expeditious, professional, objective, effective and caring response is made to charges of sexual misconduct. It shall be composed of professionals in disciplines such as counseling, psychology and law. The CRT is to be a cadre of resource people who are available to provide assistance and counsel to the Presbytery's Ministry for Leadership or a Presbytery investigating committee, as either group may require or request. Members of the RCT are deemed "experts" and as such should be named as a "Need to Know Group" by the investigative committee as to names of accused, victims, witnesses, and congregations impacted by such an alarming charge. In essence, the RCT should be in a position to contact those involved to say something different to the involved persons such as, "the Presbytery has heard you and are sorry you are going through this", and offer counseling or help. The RCT will not investigate an allegation or in any way usurp the roles of Presbytery leaders or an investigating committee. The RCT will confine its activities to:
1. Coordinating a process that addresses the specific needs of the alleged victims and their families, those accused and their families, and affected congregations.
 2. Recommending advocates, if requested by the alleged victims, the accused, family members, or an involved congregation.
 3. Recommending and, if called upon by the Presbytery's Ministry for Leadership, assist in presenting the preventive education and training regarding sexual misconduct.
- B. **CONFIDENTIALITY:** Members of the RCT and any individual participating in the work of the RCT shall sign a pledge of confidentiality, copies of which shall be furnished to the chair of the RCT, and presbytery pastor/stated clerk of Presbytery.
- C. **FUNCTIONS:** The RCT shall have the following primary functions:
1. Receive the written report of alleged sexual misconduct from the presbytery pastor/stated clerk. The RCT will begin its work as soon as activated by the Presbytery's Ministry for Leadership but within fourteen (14) days of written notification.
 2. Provide for the pastoral care of all involved parties.
 3. Provide assistance, as requested by the relevant session, to begin the healing process within a congregation.
 4. Consider the need for and make recommendations to any or all parties involved to seek professional psychological counseling.
 5. Recommend educational or employment practices to be implemented in a local church, council, or entity to prevent possible additional allegations of sexual misconduct.
 6. Submit a written report to the presbytery pastor/stated clerk. The RCT shall be available to all parties to ensure continued pastoral care after its report is submitted.
- D. **NON-RCT FUNCTIONS:** The RCT is NOT intended to do the following:
1. Advocate for or against any involved party.
 2. Serve as legal counsel for any party.

3. Replace the functions of the Committee on Ministry, Presbytery's Ministry for Leadership, investigating committee, or the Permanent Judicial Commission.
4. Determine the guilt or innocence of the accused or victim.
5. Enforce a specific disciplinary action.
6. Act as professional counselor for any involved party.

APPENDIX C

FORMS

- 1 Acknowledgment of Receipt and Agreement to Comply**
- 2 Church Volunteer Covenant for Sexual Responsibility**
- 3 Report of Suspected Sexual Misconduct**

ACKNOWLEDGMENT OF RECEIPT AND AGREEMENT TO COMPLY

I hereby acknowledge that I have received a copy of the “Presbytery de Cristo Policy and Procedure on Sexual Misconduct,” dated (insert day, month, year). Further, I either have been trained as to its content or have or will read the policy in order to understand its meaning.

I hereby agree to conduct myself in accordance with the policy.

Signature _____

Printed Name _____

Date _____

Note: This form is to be completed by teaching elders, ruling elders commissioned to pastoral service, ministerial candidates, all individuals serving in ordered ministries in a particular church, and staff and church employees.

The original of this acknowledgement will be placed in the personal file of the signatory or retained in the central administrative or ministry files of the particular church.

CHURCH VOLUNTEER COVENANT FOR SEXUAL RESPONSIBILITY

1. As a church volunteer I agree to observe all church rules and policies while working with youth or children or adults. Further, I understand that (Name of church or church entity) prohibits sexual misconduct and sexual coercion, or sexual exploitation of children or adults while I minister in any internal or external activity related to the church.
2. I understand that if I engage in such behavior I will be subject to appropriate discipline that may include legal action. I agree to fully cooperate with the church. Further, I acknowledge that such discipline may result in termination of my activities as a volunteer.
3. I acknowledge that I understand the church's policy on sexual misconduct and agree to abide by it.

Signature _____

Printed name _____

Date _____

Note: This form is to be used for all unpaid volunteers, teachers, youth workers, coaches, music leaders, and so forth. The signed forms are to be retained in the central administrative or ministry files of the particular church.

The Mandatory Reporting Law of the State of Arizona

“Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means... shall immediately report or cause reports to be made of this information to a peace officer or to Child Protective Services in the Department of Economic Security, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.”

(Arizona Revised Statute 13-3620)

Why do we focus on this law?

Our willing compliance with the mandatory reporting law is a key element of the Sexual Misconduct Policy of The Holy Way Presbyterian Church.

Who is obligated by the law?

“Any person” is the key phrase both in the mandatory reporting law and the policy of The Holy Way Presbyterian Church. All persons associated with the church are expected to know and follow the law.

When am I required to act?

If you reasonably believe that a minor is, might be or has been the victim of abuse, whether that belief is because of personal observation or disclosure from a third party, you should take action.

What must I do?

Call law enforcement (using 9-1-1) **and** Child Protective Services (888-SOS-CHILD, or 888-767-2445).

When must I make the calls?

The most important word in the law with respect to making a report is “immediately.”

What if I don’t want to get involved?

Failure to report will lead to your being charged with a Class 1 misdemeanor or, in the case of sexual abuse, a Class 6 felony.

How do I make a report?

1. Call law enforcement (9-1-1).
 - a. Be prepared to give basic information such as:
 - i. What you have observed,
 - ii. The name of the child believed to have possibly suffered abuse,
 - iii. Any identifying and locating information about the child and family,

- iv. Any identifying and locating information about the person who is suspected of perpetrating abuse.
 - v. Where the abuse seems to have occurred, and
 - vi. Any factors that make clear the nature and urgency of the immediate situation.
2. Call CPS (888-SOS-CHILD or 888-767-2445) if there is any indication that the abuse may have occurred within the general framework of family. This is the safest policy to insure the welfare of the child.
3. Contact the Pastor (Rev. Ray Thomas, 260-2512) or Clerk of Session (Charlotte Venekamp, 883-1251) and submit the written report.

What do I do after making a report?

- See to the protection of the child until law enforcement arrives.
- Offer further information that you have observed or heard to the responding officer, as requested.
- Maintain a chronological log of actions taken and information received.
- Follow up with a written report to CPS within 72 hours using the form provided.
- Follow up with law enforcement unless directed otherwise by the responding investigators.
- Provide support for the child and family when released to do so by law enforcement.

What should I avoid doing if I observe abuse or receive a disclosure of abuse?

- Do not let go your emotional control in front of the minor when faced with information that may indicate abuse.
- Do not fail to make a report for any reason or assume someone else will make the report.
- Do not delay a report until a superior can be contacted.
- Do not investigate by collecting more information “to be sure” prior to making the report. Stick to what happened, who did it and where it happened? If your belief is based on the report of a third party, do not investigate further; make the report on the basis of the indirect evidence.
- Do not notify the parents before directed to do so by law enforcement.
- Do not fail to maintain confidentiality around other staff members, children and youth, or family members during the time a report is being investigated by law enforcement or CPS is not what you expected.

How can I prepare?

- Education sessions are not only for learning the law, they are also for rehearsing the steps to be taken should the situation arise. If you practice, even in your mind, the steps to be taken, you will be more likely to act effectively at the time.
- Have the phone numbers and a report form at hand.

REPORT OF SUSPECTED SEXUAL MISCONDUCT

Date of this report _____

Reported by: Name: _____
Role: _____
Address: _____
Telephone: _____ Email: _____

Person(s) suspected of misconduct:
Name: _____
Role: _____
Address: _____
Telephone: _____ Email: _____

Other person(s) involved (victim(s)):
Name: _____
Role: _____
Address: _____
Telephone: _____ Email: _____

Describe incident(s) of suspected sexual misconduct, including date(s), time(s), and location(s). Be as accurate and specific as possible. Attach additional sheets if required.

Identify eyewitnesses to the incident, including names, addresses and telephone numbers as available: Attach additional sheets if required.

Other information that may be helpful to the investigation. Attach additional sheets if required.

Signature: _____