

SEXUAL MISCONDUCT PREVENTION & MANDATED REPORTING (EC-2)

Policy Statement

It is the policy of the Presbytery of San José (hereafter referred to as Presbytery) that all employees, members and volunteers of the Presbytery shall maintain the integrity of ministerial employment and professional relationships at all times. Sexual misconduct (as defined in Appendix A) violates the principles set forth in Scripture and is never permissible. The Presbytery's Sexual Misconduct and Mandated Reporting (as defined in Appendix A) Prevention Policy applies to all Ministers, employees and persons involved in the ministry of the Presbytery. Its purpose is as follows:

- To set standards of ethical behavior consistent with Scripture and secular law, and to establish a process for the enforcement of those standards;
- To establish personnel employment practices and forms for the administration of appropriate employer/employee relationships within the Presbytery;
- To serve as a guide for the prevention of sexual misconduct;
- To provide educational programs and training in mandated reporting (See Appendix E) and preventing sexual misconduct

Included in this policy EC-2 are the following Appendices:

Appendix A - Definitions and Relevant Sections of California Penal Code 11165, 11166, and 15600

Appendix B - Sample Employment Questionnaire

Appendix C - Sample Employment Reference

Appendix D - Sexual Misconduct Prevention and Mandated Reporting Policy Acknowledgement Receipt

Appendix E - Sample Sexual Misconduct Prevention Policy

Rationale

An act of sexual misconduct is a violation of the ordination vows of Ministers of Word and Sacrament, Elders, and Deacons and a violation of the role of Certified Christian Educators. Church leaders are called upon to exercise integrity, sensitivity, and caring in a trust relationship devoted to the best interests of those to whom they minister.

Sexual misconduct is a misuse of authority and power which breaches Christian ethical principles. Further, it is a misuse of a trust relationship in order to gain advantage of another for personal pleasure or power, in an abusive, exploitative, and unjust manner. Such conduct cannot be justified by a claim of mutual consent. All churches, new church developments and fellowships in the Presbytery shall be in compliance with this policy.

Responsibilities

Committee on Ministry (COM) Responsibilities

1. COM shall make available sexual misconduct prevention and mandated reporter training once a year.
2. COM shall annually require and report that all members of COM have returned a signed copy of Appendix D within the last three years.
3. COM shall annually require and report that members of COM have completed Presbytery-approved sexual misconduct prevention and mandated reporter training within the last three years.
4. COM shall annually require and report that Minister members of Presbytery have completed boundaries training within the last three years.
5. COM shall distribute Section IV of this document to all Pastor Nominating Committees (PNCs).

Committee on Preparation for Ministry (CPM) Responsibilities

1. CPM shall annually require and report that all members have returned a signed copy of Appendix D.
2. CPM shall annually require and report that all the members of CPM have completed Presbytery-approved sexual misconduct prevention and mandated reporter training.

Executive Presbyter Responsibilities:

1. Inquire regarding sexual misconduct when making clearance checks of applicants for ordained positions and report to COM and the PNC.
2. Inquire regarding previous sexual misconduct prevention and mandated reporter trainings when making clearance checks of applicants for ordained positions and report the findings to COM.
3. Annually confirm that all members of the Presbytery staff have completed sexual misconduct prevention and mandated reporter training within the last three years and maintain a record of compliance.

Minister Responsibilities

1. To remain in good standing, all Minister members of Presbytery shall complete Presbytery approved sexual misconduct prevention and mandated reporter training as soon as possible after becoming a Minister member and shall complete follow up training every three years.

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2. To remain in good standing, all Minister members of Presbytery shall return a signed copy of Appendix D upon becoming a member of Presbytery and complete Presbytery approved boundaries training within one year of becoming a member of Presbytery. In addition, Ministers shall submit an updated copy of Appendix D and shall complete Presbytery approved boundaries training every three years.
3. All Ministers who are members of other Presbyteries, but approved to serve in the bounds of the Presbytery of San Jose shall meet the requirements of Section III D.1 and III D.2 .
4. All Commissioned Ruling Elders and Certified Christian Educators who actively serve in pastoral roles shall meet the requirements of Section III D.1 and III D.2 .

Personnel Committee of Presbytery Responsibilities

1. The personnel committee of the Presbytery shall comply with fair employment practices.
2. The personnel committee of the Presbytery shall maintain record keeping, pre-screening and reference checks for Presbytery staff in accord with the provisions listed in sections III.F & IV.

Presbytery Office Responsibilities:

1. The Presbytery Office shall keep a current ~~file~~ record of the Ministers, members of COM, and members of CPM who shall have returned a signed copy of Appendix D within the last three years.
2. The Presbytery Office shall keep a current ~~file~~ record of the Ministers, members of COM, and members of CPM who shall have completed Presbytery-approved sexual misconduct prevention and mandated reporter training within the last three years.
3. The Presbytery Office shall maintain records verifying that all its employees and volunteers at Presbytery retreats and special events shall have signed a copy of Appendix D up within the last three years.
4. Special note: All adults who volunteer or provide transportation for Presbytery-sponsored events involving minors are required to provide as part of the registration process 1) a signed copy of Appendix D, and 2) formal approval of their session to participate. (See Section III.G.3,4,6)

Session Responsibilities:

The moderator shall inform the session annually of the following responsibilities:

1. Session of the particular church shall require that all Ministers (regardless of denomination) under its purview complete Presbytery-approved sexual misconduct prevention and mandated reporter training.

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2. Session shall require that all currently serving and newly elected Elders complete Presbytery-approved sexual misconduct prevention and mandated reporter training; that they sign Appendix D (indicating that they have received and read the Presbytery's Sexual Misconduct Prevention and Mandated Reporting Policy); and shall record such in the minutes.
3. Session shall ensure and document through training, notice-posting and other appropriate communication means that officers, employees and volunteers are aware of, understand and have access to the Presbytery's Sexual Misconduct Reporting Policy (20B).
4. Session of each church within the Presbytery shall adopt and implement a Sexual Misconduct Prevention Policy (sample policy can be found in Appendix E). A session may adopt and implement a different policy upon the approval of the Safe Church Task Force.
5. The clerk of each session shall make available to church members upon request a copy of the Presbytery Sexual Misconduct Prevention and Mandated Reporting Policy.
6. Session is responsible through its personnel committee or PNC for contacting references (See Appendix C) for all applicants for church employment.

Stated Clerk Responsibilities

1. The Stated Clerk shall report annually: a) names of Ministers, members of COM and CPM who have returned a signed copy of Appendix D within the last three years; b) names of Ministers who have taken boundaries training within the last three years c) session compliance with Elder training in sexual misconduct prevention and mandated reporting; d) session compliance in developing and/or adopting a sexual misconduct prevention and mandated reporting policy.
2. The Stated Clerk, in consultation with COM may grant a waiver for Minister Responsibilities (Section III D of this policy) on a case-by-case basis to any Minister member or other Minister serving within the bounds of the Presbytery.
3. The Stated Clerk, in consultation with COM, may change the ecclesiastical status of any Minister member who does not meet the responsibilities in Section III D.
4. The Stated Clerk shall provide training in sexual misconduct prevention and mandated reporting for all convened PJs.

Employment Practices

All governing bodies shall comply with fair employment practices.

Employment Pre-Screening of all Minister and Employee Applicants

1. Pre-employment screening for ALL employees, including clergy, shall include completion of certification found on page two (Appendix B) of the Employment Questionnaire - Presbytery of San José which states: I certify that (a) no civil, criminal, ecclesiastical complaint has ever been sustained or is pending against me for sexual misconduct; (b) I have never resigned or been terminated from a position for reasons related to sexual misconduct; or, (c) I have never been required to receive professional treatment for reasons related to sexual misconduct on my part.
2. A lay applicant who is unable to certify to the above may instead provide a description of the relevant complaint, resignation, transfer, termination, outcome of the situation, and any explanatory comments the applicant wishes to make.
3. A copy of the signed or unsigned certification (Appendix B) shall be kept at the place of employment.

Reference Checks

1. The Presbytery, through the Executive Presbyter, is responsible for including questions regarding sexual misconduct when making clearance checks of applicants for ordained positions; and for reporting to COM and the PNC.
2. The employing entity, through its session, governing board, or personnel committee is responsible for contacting references for all paid and volunteer positions.
3. If an applicant gives false or misleading information or withholds relevant information regarding sexual misconduct, the applicant shall be eliminated from consideration.
4. In response to reference requests, the Executive Presbyter and/ or other persons authorized by the Presbytery (either directly or through COM) to give references, must give truthful information regarding allegations and administrative or disciplinary action related to sexual misconduct of the applicant. The response must be limited to information contained within the written summary prepared by the PJC or governing body.

Compliance and Distribution

All Minister members of the Presbytery, its employees, and volunteers in high risk positions, e.g., youth ministry, camp counselors, etc. shall be required to sign a statement (Appendix D) acknowledging that they have received a copy of this document (Policy EC-2 and EC-3) and that they agree to conduct themselves in accordance with the policy contained therein.

Policy EC-2 and EC-3 shall also be distributed to the sessions of all churches in the Presbytery and be made available to their church members upon request.

Appendix A

Definitions

Child Sexual Abuse includes, but is not limited to:

- A. any sexual contact or sexual interaction between a child (under the age of eighteen years) and an adult;
- B. any use of a child for the sexual stimulation of an adult, a third person, or the child;
- C. any risqué jokes, innuendo, unacceptable visual contact, unwelcome casual touch, unwelcome and inappropriate hugs and kisses, and sexually suggestive pictures between an adult and a child, as deemed inappropriate by any reasonable adult.

Sexual Abuse is sexual misconduct in the context of a clear breach of professional trust and/ or misuse of the power, stature, influence, or authority of the clerical office or other leadership position. In the professional context, mutual expressions of affection do not abrogate the abusiveness of the relationship, for true consensuality may be considered, by definition, impossible between a professional and a person in that professional's care.

Sexual Harassment means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature 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 the Presbytery; or,

submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or,

such conduct has the purpose or the effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or offensive working environment based on the declared judgment of the affected individual. Lack of intent to harass is no defense.

Mutual consent is not possible when one party is a clergy/ professional lay leader in a pastoral, counseling, employer or leadership position within the church, related organization, or sponsored activity in which the other party is a parishioner, member, counselee, employee; or, when one of the parties is a child.

Examples of sexual harassment include, but are not limited to:

Verbal: sexual innuendoes, risqué jokes, sexually suggestive or insulting questions, comments, or sounds, jokes or teasing of a sexual nature, sexual propositions or threats, continuing to make sexual advances or comments or otherwise expressing personal interest after being informed that the interest is unwelcome, sexual remarks regarding clothing, body, or love life, or any type of subtle pressure for sexual activity.

Visual: sexually suggestive or gender derogatory objects, pictures, computer software, posters, or letters; leering, whistling, or obscene or sexually suggestive gestures.

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Physical: unwanted physical contact, including touching, pinching, brushing the body, impeding or blocking movement, sexual intercourse or assault.

Encouraging attitudes or patterns of verbal, visual, or physical conduct (may or may not be obviously directed at a particular person) which may be reasonably perceived as tending to legitimize, rationalize, or make light of unwanted sexual advances.

Sexual Misconduct is a comprehensive term used in this policy to include, but is not limited to:

- A. child sexual abuse as previously defined;
- B. rape or sexual contact by force, threat, or intimidation;
- C. sexual malfeasance- as breach of trust by a religious leader, resulting from a relationship and/or sexual contact within a ministerial or professional or leadership relationship;
- D. production, accessing or distribution of pornography as defined by actions or policy statements of the General Assembly, Presbyterian Church (U.S.A.); or viewing pornography on church computers or on church premises.

Employee or Volunteer (member or non-member) is any person hired or volunteering to work for the Presbytery or related organization within the jurisdiction of the Presbytery.

Mutual Consent is not possible when one party is a clergy/ professional lay leader in a pastoral, counseling, employer or leadership position within the church, related organization, or sponsored activity in which the other party is a parishioner, member, counselee, employee; or, when one of the parties is a child.

Mandated Reporting: Mandatory reporters of child and elder abuse and neglect in California include “clergy members” and “custodian of records of a clergy member” (in the PCUSA this refers to clerks of session).

The constitution of The Presbyterian Church (USA) requires that Ministers of Word and Sacrament, Elders, and Deacons “shall report to ecclesiastical and civil legal authorities knowledge of harm, or risk of harm, related to 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 a confidential (for clergy)/privileged (for elders and deacons) communication as defined in G-6.0204a; or (2) she or he reasonably believes that there is risk of future physical harm or abuse.” G-6.0204b, G-6.0304b, G-6.0402b. (*Book of Order* 2007-9)

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Relevant Sections of California Penal Code 11165, 11166 and 15600

“A mandated reporter shall make a report to an agency (police or sheriff’s department, welfare department, Child Protective Services, Adult Protective Services) whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. The mandated reporter shall make an initial report to the agency immediately or as soon as practicably possible by telephone and the mandated reporter shall prepare and send, fax, or electronically transmit a written follow up report thereof within 36 hours of receiving the information concerning the incident.”

“Any mandated reporter who fails to report an incident of known or reasonably suspected child abuse or neglect as required by this section is guilty of a misdemeanor punishable by up to six months confinement in a county jail or by a fine of one thousand dollars (\$1,000) or by both that imprisonment and fine.”

The Welfare and Institutions Code section 15600 and the following sections provide for mandatory reporting of abuse of older adults age 65 and over and of dependent adults ages 18-64. The law defines a “dependent adult” as someone ages 18-64 who has physical or mental limitations which restrict his/her ability to carry out normal activities or to protect his/her rights, including those whose abilities have diminished with age.*

The current abuse reporting law applies to both older and dependent adults.

“Any mandated reporter, in his/her professional capacity, who has observed or has knowledge of an incident that reasonably appears to be abuse, or is told by the older or dependent adult that he/she has been abused, or reasonably suspects abuse must report the known or suspected abuse by telephone immediately, and by written report within two working days as described below.”

“If the known or suspected abuse is alleged to have occurred in a long term care facility such as a skilled nursing facility or a residential care facility, the abuse must be reported to the Long Term Care Ombudsman Program or the police. If the abuse occurred anywhere else, the report must be made to Adult Protective Services or the police.”

“Any person reporting abuse under this law is immune from civil or criminal liability, unless that person acted in bad faith or with malicious purpose.”

“However, failure to report physical abuse of an older or dependent adult is a misdemeanor punishable by not more than six months in county jail or by a fine of not more than \$1,000, or both. Willful failure to report serious abuse, where the abuse results in death or great bodily injury, may be punishable by up to one year in county jail, or a fine of up to \$5,000, or both.”

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Employed by: _____

Address: _____

Employed From (Month/ Year): _____ to (Month/ Year) _____

Name of Supervisor & Phone Number: _____

Reason(s) for Leaving: _____

Job Title: _____

Employed by: _____

Address: _____

Employed From (Month/ Year): _____ to (Month/ Year) _____

Name of Supervisor & Phone Number: _____

Reason(s) for Leaving: _____

Please complete the following certification:

I certify that (a) no civil, criminal, ecclesiastical complaint has ever been sustained or is pending against me for sexual misconduct; (b) I have never resigned or been terminated from a position for reasons related to sexual misconduct; and, (c) I have never been required to receive professional treatment for reasons related to sexual misconduct on my part.

Signature: _____ Date _____

Print Name _____

Note: If you are unable to make the above certifications, you may provide, in the space provided below, a description of the complaint, termination, or course of treatment you have been involved in, giving dates, names, and addresses of employers and physicians, the outcome of the situation, and any explanatory comments you care to add: _____

If the above certification cannot be made because of sustained or pending charges related to sexual misconduct, termination for reasons related to sexual misconduct, or civil and/or criminal charges, the following waiver must be signed, witnessed and notarized:

Release

The information I have provided on this questionnaire is accurate to the best of my knowledge and may be verified by the Presbytery of San Jose. The Presbytery of San Jose is authorized to make any and all contacts necessary to verify my prior employment history, medical information, and to inquire concerning any prior arrest or criminal records or any judicial proceedings involving me as a defendant. By means of this release, I also authorize any previous employer, any physician who has treated me (specifically including any psychiatrist, mental health professional, or psychologist possessing information as to prior mental or emotional illnesses or drug or alcohol abuse), and any law enforcement agencies or judicial authorities to release any and all requested information to the Presbytery of San Jose.

I have read this release and fully understand that the information obtained may be used to deny me employment or any other type of position in the Presbytery of San Jose. I also agree that I will hold harmless the Presbytery of San Jose, as well as any prior employer, psychologist, psychiatrist, mental health professional, physician, law enforcement authority, or judicial authority from any and all claims, liabilities, and cause of action for the release or use of any information.

Signature: _____ Date _____

Print Name _____

Appendix C

Sample Employment Reference

1. Name of Applicant: _____

2. Reference or Church Contacted (if a church, identify church & individual contacted):

3. Date and Time of Contact: _____

4. Method of Contact (telephone, letter, email, conversation): _____

5. Summary of Conversation (summarize remarks concerning the applicant’s fitness and suitability for the position, any allegations of sexual misconduct or child sexual abuse):

6. Signature of Person Making This Reference Contact:: _____

Print Name _____ Date _____

Appendix D

Sexual Misconduct Prevention and Mandated Reporting Policy

Acknowledgment Receipt

I hereby acknowledge that I received on _____(date) a copy of the San José Presbytery Sexual Misconduct Prevention and Mandated Reporting Policy, dated November 17, 2018 and that I have read the policy, understand its meaning, and agree to conduct myself in accordance with the policy.

I attest that I have read and understand the mandatory reporter provisions of the Penal Code of the State of California which are stated in this document and the “duty to report” mandates of the constitution of the Presbyterian Church (USA) and that I will comply with those provisions.

Signature: _____ Date _____

Print Name _____

Note: This Acknowledgment must be signed as designated in Policy EC-2 and at such times as amendments or revisions to the Policy are made and distributed.

Appendix E
Sample Sexual Misconduct Prevention Policy

I. POLICY STATEMENT

It is the policy of *CHURCH NAME* that all employees, members and volunteers of the *CHURCH NAME* shall maintain the integrity of ministerial employment and professional relationships at all times. Sexual misconduct is a violation of the principles set forth in Scripture and is never permissible. The *CHURCH NAME* is committed to providing a work environment free of unlawful harassment. The *CHURCH NAME* Sexual Misconduct Prevention Policy prohibits sexual harassment based on pregnancy, childbirth or related medical conditions, race, religious creed, color, national origin or ancestry, physical or mental disability, medical condition, marital status, age, sexual orientation, or any other basis protected by federal, state, or local law or ordinance or regulation. All such harassment is unlawful.

The *CHURCH NAME* Sexual Misconduct Prevention Policy applies to all Ministers, employees and persons involved in the operation of the Church. Its purpose is as follows:

- A. To set standards of ethical behavior consistent with Scripture and secular law, and to establish a process for the enforcement of those standards;
- B. To establish personnel employment practices and forms for the administration of appropriate employer, employee and volunteer relationships within the Church;
- C. To serve as a guide for the prevention of sexual misconduct.

RATIONALE

- A. An act of sexual misconduct is a violation of the ordination vows of Ministers of Word and Sacrament, Elders, and Deacons. Church leaders are called upon to exercise integrity, sensitivity, and caring in a trust relationship devoted to the best interests of those to whom they minister.
- B. Sexual misconduct is a misuse of authority and power which breaches Christian ethical principles. Further, it is a misuse of a trust relationship in order to gain advantage of another for personal pleasure or power, in an abusive, exploitative, and unjust manner. Such conduct cannot be justified by a claim of mutual consent. Even if the one being ministered to initiates or invites a sexual relationship, it is the ordained person's responsibility to maintain the appropriate role and prohibit a sexual relationship.
- C. Sexual misconduct takes advantage of the vulnerability of children and persons who are less powerful to act for their own welfare. It is antithetical to the gospel call to work as God's servant in the struggle to bring wholeness to a broken world. It violates the mandate to protect the vulnerable from harm.

III. DEFINITIONS

- A. **Child Sexual Abuse** includes, but is not limited to:
 - 1. any sexual contact or sexual interaction between a child (under the age of eighteen years) and an adult;
 - 2. any use of a child for the sexual stimulation of an adult, a third person, or the child;

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3. any risqué jokes, innuendo, unacceptable visual contact, unwelcome casual touch, unwelcome and inappropriate hugs and kisses, and sexually suggestive pictures between an adult and a child, as deemed inappropriate by any reasonable adult.
- B. **Sexual Abuse** is sexual misconduct in the context of a clear breach of professional trust and/or misuse of the power, stature, influence, or authority of the clerical office or other leadership position. In the professional context, mutual expressions of affection do not abrogate the abusiveness of the relationship, for true consensuality may be considered, by definition, impossible between a professional and a person in that professional's care.
- C. **Sexual Harassment** means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or their continued status in the Presbytery; or,
 2. submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or,
 3. such conduct has the purpose or the effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, or offensive working environment based on the declared judgment of the affected individual. Lack of intent to harass is no defense.
 4. Examples of sexual harassment include, but are not limited to:
 - a. Verbal: sexual innuendoes, risqué jokes, sexually suggestive or insulting questions, comments, or sounds, jokes or teasing of a sexual nature, sexual propositions or threats, continuing to make sexual advances or comments or otherwise expressing personal interest after being informed that the interest is unwelcome, sexual remarks regarding clothing, body, or love life, or any type of subtle pressure for sexual activity.
 - b. Visual: sexually suggestive or gender derogatory objects, pictures, computer software, posters, or letters; leering, whistling, or obscene or sexually suggestive gestures.
 - c. Physical: unwanted physical contact, including touching, pinching, brushing the body, impeding or blocking movement, sexual intercourse or assault.
 - d. Encouraging attitudes or patterns of verbal, visual, or physical conduct (may or may not be obviously directed at a particular person) which may be reasonably perceived as tending to legitimize, rationalize, or make light of unwanted sexual advances.
- D. **Sexual Misconduct** is a comprehensive term used in this policy to include, but not limited to:
1. child sexual abuse as previously defined;
 2. rape or sexual contact by force, threat, or intimidation;
 3. sexual malfeasance- as breach of trust by a religious leader, resulting from a relationship and/ or sexual contact within a ministerial or professional or leadership relationship;
 4. production or distribution of pornography as defined by actions or policy statements of the General Assembly, Presbyterian Church (U.S.A.); or viewing pornography on church computers or on church premises.

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- E. **Mutual consent** is not possible when one party is a clergy/ professional lay leader in a pastoral, counseling, employer or leadership position within the church, related organization, or sponsored activity in which the other party is a parishioner, member, counselee, or employee; or when one of the parties is a child.

PREVENTION EDUCATION AND TRAINING

- A. All Ministers of Word and Sacrament, installed Elders and Deacons, and employees of *CHURCH NAME* will take the Presbytery of San José's sexual misconduct prevention and mandated reporter training within six months of beginning their service at *CHURCH NAME*.
 - 1. Elders and Deacons serving consecutive terms must meet this requirement once during their service.
 - 2. Ministers of Word and Sacrament, Commissioned Ruling Elders and Certified Christian Educators in pastoral roles must comply with the Presbytery of San José's sexual misconduct prevention and mandated reporter requirements and Presbytery approved clergy boundaries training every three years.
 - 3. All employees must participate in sexual misconduct prevention and mandated reporter training every 3 years.
 - 4. Volunteers working with minors:
 - a. must complete *CHURCH NAME* Volunteer Information Form and Background Check including fingerprints within 4 weeks of starting their work.
 - b. will be provided orientation about and a copy of the *CHURCH NAME* Sexual Misconduct Prevention Policy.
- B. The goals of the orientation (IV.A.4.a) will include:
 - 1. recognition of the imbalance of power between the volunteer and those in their care;
 - 2. understanding the necessity of maintaining appropriate boundaries as well as establishment and maintenance of professional and caring environment and demeanor;
 - 3. awareness that frequent calling visits, frequent phone conversations, extended time together, and physical touching, hugs, and kisses may be associated with sexual advances and are high risk behaviors which may be perceived as unwelcome or an infringement on the rights of others;
 - 4. the need for volunteers who work with minors or counsel or provide spiritual direction to observe professional cautionary measures such as: limiting time spent with each counselee or directee, making sure that there are other people around the buildings during sessions, and observing a professional caution regarding touching of counselee/directee;
 - 5. the need for volunteers who are providing counseling to be in a supervisory relationship with a licensed psychotherapist; and,
 - 6. the need for volunteers who are providing spiritual direction to be in direction themselves as well as having a supervising spiritual director.

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RESPONSIBILITIES

A. Minister Responsibilities

1. Ministers shall annually confirm that they have received and read the Sexual Misconduct Prevention and Mandated Reporting Policy by completing and returning Appendix D.
2. All Minister members of Presbytery shall complete Presbytery-approved sexual misconduct prevention and mandated reporter training every three years and shall complete Presbytery-approved boundaries training every three years.

B. Personnel Committee of *CHURCH NAME* Responsibilities

1. The personnel committee of the CHURCH NAME shall comply with fair employment practices.
2. The personnel committee of CHURCH NAME shall coordinate training for all persons affected by this policy.
3. The personnel committee of the CHURCH NAME shall maintain record keeping, pre-screening and reference checks in accord with the provisions listed in this policy.
4. The personnel committee shall report yearly to session the names of any persons who are not in compliance with this policy.

C. Session Responsibilities

The moderator shall inform the session annually of the following responsibilities:

1. Session of the particular church shall ensure that all Ministers (regardless of denomination) under its purview complete Presbytery-approved sexual misconduct prevention and mandated reporter training; and submit a completed Appendix D to the COM.
2. Session shall ensure that all newly elected Elders complete Presbytery-approved sexual misconduct prevention and mandated reporter training; that they sign Appendix D (indicating that they have received and read the Presbytery's Sexual Misconduct Prevention and Mandated Reporting Policy); and shall record such in their minutes.
3. Session shall ensure and document through training, notice-posting and other appropriate communication means that officers, employees and volunteers with high visibility are aware of, understand and have access to the Presbytery's Sexual Misconduct Reporting Policy (EC-1).
4. Session of each particular church within the Presbytery shall adopt and implement a Sexual Misconduct Prevention Policy to ensure compliance with fair employment practices.
5. The clerk of each session shall make available to church members upon request a copy of the Presbytery Sexual Misconduct Prevention and Mandated Reporting Policy (EC-1) and the Sexual Misconduct Reporting Policy (EC-2).
6. Session is responsible through its PNC or personnel committee for contacting references for all applicants for church positions.

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EMPLOYMENT PRACTICES

All governing bodies are to comply with fair employment practices.

A. Employment Pre-Screening of all Employee Applicants

1. Pre-employment screening for ALL employees and volunteers is to include completion of certification which states:

I certify that (a) no civil, criminal, ecclesiastical complaint has ever been sustained or is pending against me for sexual misconduct; (b) I have never resigned or been terminated from a position for reasons related to sexual misconduct; or, (c) I have never been required to receive professional treatment for reasons related to sexual misconduct on my part.

(Appendix B of Presbytery Policy EC-1)

2. If the applicant is unable to certify to the above, lay applicants may instead provide a description of the relevant complaint, resignation, transfer, termination, or course of treatment including dates, names, addresses, and telephone numbers of employers and/ or physicians, the outcome of the situation, and any explanatory comments the applicant wishes to make.
3. Copies of completed "CHURCH NAME Employment Questionnaire" shall be kept at the CHURCH NAME office.

B. Reference Checks

1. The Session, through the personnel committee, is responsible for including questions regarding sexual harassment and other sexual misconduct when making clearance checks of applicants for ordained positions; and for reporting to COM and PNC any information received.
2. The session, through its personnel committee, is also responsible for contacting references and performing background checks for all called, paid and volunteer positions.
3. Employees and volunteer applicants shall be given opportunity to submit additional references or to give other evidence to correct or respond to harmful information obtained from a reference.
4. If an applicant gives false or misleading information or withholds relevant information regarding sexual misconduct, said applicant shall be eliminated from consideration.
5. If a response to an employment/volunteer application and/or a reference check reveals information of sexual harassment or other sexual misconduct, COM must be notified immediately.

COMPLIANCE AND DISTRIBUTION

All employees, and volunteers in high risk positions (e.g., youth ministry, camp counselors, etc.) shall be required to sign a statement (Appendix D) acknowledging that they have received a copy of this document and that they agree to conduct themselves in accordance with the policy contained therein. Furthermore, a summary statement of this policy and other significant portions of this document shall be posted in the church office.