

The Presbytery of
Southern New England

Sexual Misconduct
Policy and Procedures

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Presbyterian Church (U.S.A.)

The Presbytery of Southern New England

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The Presbytery of Southern New England gives sincere thanks to the Presbytery of Detroit for the majority of this Sexual Misconduct Policy and Procedures manual. We didn't reinvent the wheel, we just adapted it to fit the spokes of Southern New England.

I. INTRODUCTION

In recent years, sexual misconduct has become a public matter, having been previously quietly dispatched or ignored. Presbyteries, Synods and the General Assembly of the Presbyterian Church (U.S.A.) have adopted policies for the prevention and judicial management of these cases. This document applies to the Presbytery of Southern New England-its ministers, committee members, related agencies, and staff. This policy reiterates that sexual misconduct will not be tolerated.

A. Theological Rationale

Under the grace of God and the Lordship of Jesus Christ, the church and its people are called to behave responsibly in a connectional system that is clear in its expectations and uniform in its discipline. Biblical standards for the sanctity of marriage and for ethical behavior are based on a combination of love, justice and the equitable distribution of power. Sexual behavior is one aspect of human interaction that must be conducted justly without exploitation. Our faith, under Christ, leads us to decry any interactions where people are treated without love and justice.

The church has grappled since its inception with the tension between judgment and grace as attributes of God's nature. Though grace predominates and forms the motivation of the church's response, judgment and discipline are expected when individual behavior affects other persons and the church body as a whole. To lightly dismiss an instance of sexual misconduct, although it may appear on the surface to be gracious, is really compounding the misconduct. Maintaining silence is unacceptable. In the words of Paul: "All things are lawful but not all things build up. Do not seek your own advantage, but that of the other." (I Corinthians, 10:23-24)

B. Purpose and Scope

1. Purpose

It is the purpose of this policy:

- a. to define sexual misconduct in the Presbytery of Southern New England;
- b. to provide standards for behavior applicable to all members of the Presbytery of Southern New England: ministers, commissioned lay pastors, committee members, candidates, inquirers, volunteers, members of the Presbytery Council, the moderators of any of the Presbytery's entities, employees, or any other person carrying out the programs of the Presbytery of Southern New England;
- c. to provide for measures to prevent the occurrence of sexual misconduct;
- d. to provide the basis for policies to be adopted by church Sessions dealing with church members, non-ordained employees and volunteers;
- e. to have a system which provides for an expeditious, professional, confidential, and caring response in sexual misconduct situations;
- f. to serve as a companion to the Book of Order but not to supersede any of its provisions.

2. Scope

The persons governed by this policy are all members of the Presbytery of Southern New England: ministers, commissioned lay pastors, committee members, candidates, inquirers, volunteers, members of the Presbytery Council, the moderators of any of the Presbytery's entities, employees, or any other person carrying out the programs of the Presbytery of Southern New England.

- a. **Particular Churches:** This policy does not purport to regulate sexual conduct within the particular churches of the Presbytery of Southern New England, but it does regulate clergy behavior in church settings. It is recommended that Sessions adopt policies similar to this one.
- b. **Child Protection:** Because of the unique issues involved in monitoring youth and child activities, this policy is not intended to serve as a full child protection policy. All churches must have a Child Protection Policy in place and updated at least every five years. When new churches are chartered, they are to be given one year from their charter date to adopt an appropriate child protection policy. Child Protection Policies (see example in Appendix G) should include the following guidelines for all paid and all volunteer personnel who work with (or will work with) any minor children including:
 - A "Screening Form" for all paid and volunteer children and youth workers
 - An interview process of all child and youth volunteers
 - Implement a "two-adult" rule
 - Establish a "six-months-at-your-church" rule (minimum, but exempt paid staff after completion of background check)
 - Provide for adequate personnel
 - Overnight rule ... must pass screening and background checks
 - Discuss suspicious behavior with church leader
 - Discuss sexual misconduct with all children and youth leaders
 - An annual acknowledgement of the Child Protection Policy (see example on page 26)

3. Other Policies and Procedures

This policy is to be interpreted and applied consistently with any and all other applicable policies of the Presbytery of Southern New England, the Presbyterian Church (U.S.A.), and state, federal, and local law.

II. DEFINITIONS

A. Sexual Misconduct

Sexual misconduct is the comprehensive term used in this policy to cover the following:

1. **Child sexual abuse** is any contact or interaction between a child under the age of 18 when the child is being used for sexual stimulation of adults. The behavior may or may not involve touching. Sexual behavior between an adult and a child is always considered coerced whether or not consensual.
2. **Inappropriate sexual conduct** is language, visual contact, touching or other behavior judged by the person to be injurious to his or her physical or emotional health. It involves crossing a boundary the person was attempting to set.

3. **Rape** is sexual contact by force, threat, intimidation, or coercion.

4. **Sexual malfeasance** is sexual conduct within a ministerial or professional relationship (e.g., minister with a parishioner, counselor with a client, church employee with a church member, Presbytery staff person with a volunteer or employee). It includes unwelcome sexual advances, requests for sexual favors or conduct of a sexual nature, as well as consensual romantic relationships (see Section II.B, below).

5. **Sexual harassment** is an unwelcome sexual advance, verbal or physical contact, or display of sexually related material when:

- a. the affected party has previously rejected those advances;
- b. submission is explicitly or implicitly made a condition of future employment, service or care;
- c. such conduct affects morale or performance of the individual or others involved in the situation; or
- d. persons in the work setting claim to find the material sexually offensive.

6. **Single party conduct** is that where no other party is involved, such as use of computers, reproduction machinery or other office equipment belonging to a governing body.

7. **Inappropriate use of the Internet** to communicate with another to commit sexually abusive activity, including but not limited to the activities listed above.

B. Presumed Consent

Presumed consent is the assertion that a particular act was between consenting adults. It may apply to relationships where there is no disparity of power, such as spouses or single adults functioning as peers or colleagues. Within this policy presumed consent does not apply between ministers and parishioners, supervisors and supervised, or with anyone involved with performance review, compensation, promotion or continued employment, even though the parties claim that a consensual agreement exists. The inherent imbalance of power between the minister and the lay person undermines the validity of such consent. If a minister and lay person wish to pursue a consensual romantic relationship, one or the other must change churches/jobs so that the professional relationship is no longer in place.

C. Presbytery Entities Involved in Sexual Misconduct Cases

1. An **Advocate** is a person who provides support and emotional and physical presence, to the alleged victim(s) and their family, the accused, family members of the accused, or the congregation involved in a sexual misconduct case. The advocate may also provide clarification of the investigative process of the church and the judicial process of the church to the person(s) with whom he or she works. The role of an advocate is not to speak for the party for whom he or she is an advocate, but to inform that party of his or her rights within the investigative process. The advocate shall not give advice regarding civil remedies. When requested by the party for whom he/she is advocate, the advocate may accompany that person to meetings of Presbytery entities when that party is testifying.

2. **Committee on Ministry** continues in its constitutional role as resource to ministers and congregations, particularly where pastoral vacancies occur. When appropriate, the Committee on Ministry is to facilitate the employment of interim leadership competent to manage any conflict associated with the sexual misconduct case. The Committee facilitates the relations

between congregations, ministers, and the Presbytery, and resolves difficulties on behalf of the Presbytery when possible and expedient.

3. The **initial reporting** may come through to the Executive Presbyter, the Stated Clerk, or the Committee on Ministry chairperson(s), and each must ensure that the proper steps are taken to bring the process to issue.

4. The **Response Team** is a group of clergy and laity (composition defined in Article III. B) who will act as advocates assigned by the Committee on Ministry to work with (1) the person making the complaint, (2) the accused, and (3) the affected governing body (on a congregational level this would be the Session) to make a preliminary intervention with affected parties. (See subsection IV C 2. page 9 for the composition of the Response Team that meets with those affected.) It has no judicial function, nor should it attempt to assume one. It may maintain contact with those involved in the situation, but must assure the parties that it is not interfering with the disciplinary case in process should there be one. This team (under the direction of COM) shall be responsible for the training of ministers and lay persons in the Presbytery in matters related to sexual misconduct, and shall take steps toward its prevention. Attendance at sexual misconduct training sessions will be tracked by COM (or their designee) and reported at the next Presbytery meeting after training takes place.

5. The **Permanent Judicial Commission** is the continuing body elected by the Presbytery to conduct trials when an investigating committee files charges. The commission's structure and duties are described in D-5.0000 in the Book of Order.

- a. When the alleged offense is sexual abuse of a person under the age of eighteen, or a person alleged to lack the mental capacity to consent, the Stated Clerk will immediately communicate it to the moderator of the PJC prior to the usual steps in establishing an investigating committee. (D-10.0106) This does not replace reporting to the authorities listed on page 18 which remains mandatory as well.
- b. Within three days of receiving such an allegation, the PJC moderator shall designate two members of the PJC or two former members of the PJC whose terms have expired within the past six years to determine whether the accused shall be placed on a paid administrative leave during the resolution of the matter.
- c. The designated representatives of the PJC, after giving the accused the opportunity to be heard, shall determine whether the risk to the congregation and to potential victims of abuse, when considered in light of the nature and probable truth of the allegations, requires administrative leave or other restrictions upon the accused's service.

6. The **Investigating Committee** is a group appointed by the Presbytery Executive, in consultation with the Stated Clerk, whenever a written Statement of Alleged Sexual Misconduct Offense (Appendix D) is received by the Stated Clerk (D-10.0103). The Investigating Committee is charged under the Rules of Discipline with conducting a full investigation of an allegation of sexual misconduct, determining whether or not charges are to be filed, and prosecuting the case, if there is one.

- a. When the alleged offense is sexual abuse of a person under the age of eighteen, or a person alleged to lack the mental capacity to consent, the two representatives of the PJC may be requested at any time during the investigation by the IC to impose, modify, or remove the administrative leave or restrictions during the course of the investigation. Such a request may come from either the IC or the accused. (D-10.0106)

7. The **Stated Clerk** receives the initial complaint (Statement of Alleged Sexual Misconduct Offense) and notifies the Presbytery at its next stated meeting that a complaint has been received. The Stated Clerk consults with the Executive Presbyter and the Committee on Ministry on whether the complaint warrants an administrative leave. The Stated Clerk refers recommendations from the Investigating Committee to the Permanent Judicial Commission.

- a. Within three days of receiving the alleged offense of sexual abuse of a person under the age of eighteen, or a person alleged to lack the mental capacity to consent such an allegation, the PJC moderator shall designate two members of the PJC or two former members of the PJC whose terms have expired within the past six years to determine whether the accused shall be placed on a paid administrative leave during the resolution of the matter.

D. Additional Definitions

1. The **Accused** is the person against whom a claim of sexual misconduct is being made.

2. An **Accuser/Victim** is the person claiming knowledge of sexual misconduct by a person covered by this policy or a person claiming to have been the subject of sexual misconduct by a person covered under this policy. The accuser may or may not have been the victim of the alleged sexual misconduct.

3. Employees/Volunteers/Contracted Staff

- a. An **Employee** of the Presbytery of Southern New England has been hired by the Presbytery and/or its entities to perform specific duties for the Presbytery of Southern New England or its entities. The employee receives salary/remuneration from the Presbytery for work performed.
- b. A **Volunteer** is a person who provides services for the Presbytery and/or its entities and receives no benefit or remuneration. Volunteers include persons elected or appointed to serve on boards, committees, task forces, and other groups. For purposes of this policy, volunteers are treated the same as employees.
- c. A **Contracted Staff** person is one who provides services for the Presbytery and/or its entities and receives remuneration. For purposes of this policy, contracted staff are treated the same as employees.

4. A **Mandated Reporter** is a person required by the laws of Connecticut, Massachusetts, and Rhode Island (and other states) to report suspected incidents of child abuse, including child sexual abuse, which comes to their attention. As state laws vary, any person who knows or suspects child abuse and has questions about reporting should confer with an attorney. Mandated Reporters are required to file reports immediately in Massachusetts, within 12 hours in Connecticut, and within 24 hours in Rhode Island. (See Appendix C and letter following.)

III. THE RESPONSE TEAM

A. Purpose

Every January a Response Team shall be appointed or re-appointed by and serve under the authority of the Committee on Ministry and shall be reported to the Presbytery with the COM report at Presbytery's next stated meeting. Doing this annually reinforces and reminds

commissioners of the policy and the availability of the Response Team. The purpose of the Response Team is to:

1. Ensure that an expeditious, professional, confidential, and caring response is made by the Presbytery to charges of sexual misconduct. The Response Team, however, is not an investigatory body and will not usurp the roles of Presbytery officials or committees, including investigating committees.
2. Lead an annual program of continuing education for staff, clergy, volunteers, and congregations within the Presbytery, as outlined in the Training Section, item C below.

B. Membership

The Response Team shall be comprised of Presbyterian clergy and lay persons who represent a range of professional expertise, including but not limited to pastoral counseling/therapy, law, interim ministry, conflict resolution, personnel management and training, and child advocacy. The Response Team should reflect the racial/ethnic and gender constituency of the Presbytery, and shall be composed of an equal number of clergy and laity (or as close thereto as possible).

The Response Team should consist of six to eight persons to allow for the possibility that more than one allegation of misconduct will be pending at any particular time. Members should agree to serve for six years in order to build experience and expertise within the group. No person who has served a six-year term shall be re-appointed until one full year has elapsed.

C. Training

The Response Team members will receive training in dealing with sexual and ethical misconduct, with specific attention to the dynamics that are unique to the ministerial role. The cost of training the Response Team shall be borne by the Presbytery.

In addition, the Response Team is responsible for conducting seminars on the issues of sexual misconduct. This training is to be given annually providing those new to our Presbytery adequate training. Training certificates will be good for 3 years before requiring a refresher course. Honorably retired ministers are exempt unless they have a call.

D. Annual Review

Since this policy cannot detail all the procedures needed by the Response Team in addressing different kinds of cases, the Response Team shall annually evaluate this policy and recommend changes to the Committee on Ministry for approval by the Presbytery as needed. The Response Team shall provide Presbytery through the Committee on Ministry an annual report of this evaluation at its May meeting, regardless of whether changes are recommended.

E. Resources

1. The Committee on Ministry shall maintain a list of interim or supply pastors trained in responding to congregations where abuse has occurred and other resources for assisting such congregations.
2. The Presbytery shall develop a fund from which the expenses of administering this policy may be drawn.

IV. PROCEDURES AND IMPLEMENTATION

A. General Principles

1. Ministers, commissioned lay pastors, elders, deacons, ministerial candidates and inquirers are subject to inquiry and discipline under the Book of Order, Rules of Discipline. This policy is intended to supplement the Rules of Discipline, not replace them.
2. Employees of the Presbytery are subject to the employee policies administered by the Presbytery.
3. The victim, accuser, and accused each have the right to have an advocate (i.e. a colleague, friend, family member, counselor, or other person of their choosing) and an attorney/counsel present at all interviews and meetings. The role of the advocate is to be a supportive presence to the party. The advocate may be provided by the Response Team if desired by the affected person. Criteria for the attorney/counsel are set in the Rules of Discipline, as follows:
 - a. In proceedings under the Rules of Discipline, any person who serves as an attorney/counsel must be a member of the Presbyterian Church (U.S.A.).
 - b. In the event the accused is unable to secure counsel, the Permanent Judicial Commission shall appoint counsel. Reasonable expenses for defense shall be authorized and reimbursed by the Presbytery (D-11.0302).
 - c. Should the accuser or the accused retain legal counsel, the Presbytery shall also retain legal counsel.
4. Provision of Information
 - a. All requests for information by anyone outside the disciplinary process or the Response Team shall be referred to the Executive Presbyter and his or her designee.
 - b. A final report of any proceeding under the Rules of Discipline, including any charges filed and actions taken shall be made by the Stated Clerk to the Presbytery. A copy of the report will be filed in the permanent personnel file of the accused.

B. Initial Report

1. When a person believes that sexual misconduct has been committed by a minister, commissioned lay pastor, committee member, candidate, inquirer, volunteer, employee, or any other person carrying out the programs of the Presbytery of Southern New England, or if such a person self-accuses, the incident shall first be reported to the Executive Presbyter, the Stated Clerk, or the Chair(s) of the Committee on Ministry, who shall then notify the Response Team.
2. Disciplinary proceedings under the Rules of Discipline are initiated by submitting a written "Statement of Alleged Sexual Misconduct Offense" (Appendix D) to the Stated Clerk. Such a statement "shall give a clear narrative and allege facts, that, if proven true, would likely result in disciplinary action." (D-10.0101). At any point when an accuser submits a written

allegation to the Stated Clerk, the disciplinary proceedings under the Rules of Discipline apply and a Investigating Committee will be appointed.

3. If the accuser/victim is not willing or ready to file a written allegation with the Stated Clerk, or if the victim is a child or is not a member of the Presbyterian Church (USA), the Executive Presbyter and the Stated Clerk shall proceed to determine whether an offense may have occurred and whether a written allegation should be submitted. (D-10.0102b).
4. When the Stated Clerk of the Presbytery receives a written statement of an alleged offense of sexual misconduct, in addition to initiating the procedures required by the Rules of Discipline, the Stated Clerk shall consult with the Executive Presbyter and the Chair of the Committee on Ministry. If it is their unanimous judgment that the complaint warrants administrative leave, the Stated Clerk will notify the minister and the Session that the minister is placed on administrative leave, as provided in the Presbytery Policy on Administrative Leave (see Appendix E). All persons placed on administrative leave are presumed innocent until proven guilty.
5. Sexual misconduct involving children shall be reported first to civil authorities and then to the Executive Presbyter, the Stated Clerk, or the Chair of the Committee on Ministry. It should be noted that reporting an allegation of child abuse to the Presbytery does not relieve the accuser of his or her mandated reporting responsibilities under state law.
6. The Executive Presbyter or his/her designee will immediately notify the Presbytery's insurance company and the Response Team that an allegation was received.
7. Any allegations that fall within the jurisdiction of a local Session will be referred to the Clerk of that Session and the minister of the church. If the allegation is of sexual misconduct by a minister member, the local church should report the incident to the Executive Presbyter, Stated Clerk, or the Chair(s) of the Committee on Ministry, as minister members are governed by their presbytery of jurisdiction.

C. The Role of the Pastoral Response Team

1. When the Response Team is first notified of an accusation, it shall coordinate pastoral care as needed for the accuser/victim(s), the accused, their families, the congregation, and all other involved parties. The Response Team's responsibilities are to:

- a. notify the affected parties of the Response Team's role;
- b. confirm that civil authorities have been notified, when appropriate;
- c. assess the needs of the affected parties, congregations, entities, agencies, and governing bodies, including the need for advocates and/or an attorney or counsel.

1) The Accuser/Victim(s): **At least two persons** from the Response Team will meet with the accuser/victim(s) and their family to listen to their concerns and ascertain their needs. The Response Team members' role is to help clarify options for the accuser/victim(s) so they may decide for themselves what they will choose to do, as well as make available to the accuser/victim a list of counseling resources.

2) The Accused: The Response Team shall consult with the Executive Presbyter and his or her designee, to determine what support and resources should be offered to the accused. The Executive Presbyter or his or her designee will offer to arrange for at least **two persons** from the Response Team to provide support, as well as make available to the accused a list of counseling resources, if requested.

3) The Congregation: When a congregation is involved, the Response Team, in consultation with the Committee on Ministry and the Executive Presbyter or his/or her designee, shall determine if it would be helpful to offer the congregation support and services. When appropriate, members of the Response Team may be called upon to meet with the Session to advise the congregation on the kind of support and resources that are available and to help the Session plan a response to the situation.

4) Resources: The Response Team will identify the resources available for professional counseling. If the victim and/or the accused do not have insurance and are unable to assume the costs of counseling, the Presbytery shall accept responsibility for payment of counseling fees, for a reasonable time, up to a maximum of one year.

2. At no time will there be only one person in possession of knowledge of any matters pertaining to a case. **At least two members** of the Response Team will be present when meeting with the accuser, victim, accused, or witnesses. Such consultations shall always include at least one person who is of the same gender as the person being interviewed.

3. Members of the Response Team will make reasonable efforts to guard the privacy of persons involved. Material information will be made available only to authorized persons on a need-to-know basis.

4. Should the accuser choose to file a complaint as defined in this policy, the Response Team ceases to function in the case, other than to listen and counsel on the initiative of the parties involved.

5. Should the accuser refuse to file a complaint, the Response Team is to continue in a supportive role with the various parties through their advocates.

D. The Role of the Investigating Committee

1. The Investigating Committee is charged, under the Rules of Discipline, with conducting an inquiry to determine whether charges should be filed (D-10.0201).

2. The Investigating Committee is appointed by the Executive Presbyter in consultation with the Stated Clerk.

3. The Investigating Committee will provide the accused with a copy of the statement of the alleged offense (D-10.0202a).

4. The Investigating Committee will determine whether sufficient grounds exist to bring the complaint to trial. If the committee determines that grounds exist, and they can reasonably be proved (D-10.0202g), the Investigating Committee will prosecute the case before the Presbytery Permanent Judicial Commission.

5. After the investigation is complete, the Investigating Committee, if appropriate, will initiate alternative forms of dispute resolution (D-10.0202h), or proceed to the filing of charges (D-10.0302) and the prosecution of the case (D-10.0402).

E. Appeal Process

If the defense in a case alleges that grounds exist for an appeal (D-13.0106), any level of censure invoked by the Presbytery shall remain in force.

F. Unsupported Allegations

If the accused is acquitted of charges or if the Investigating Committee determines that the allegations are unsupported by evidence, the Executive Presbyter, and his or her designee, will consult with the accused to decide how best to repair any damage that may have been done to the reputation of the accused. If an allegation is found to have been submitted maliciously or without grounds, the accuser may be named and disciplinary action may be initiated. The Investigating Committee and the Pastoral Response Team should encourage the accused to file a 'request for vindication' under D-9.000.

V. ADDITIONAL RESPONSIBILITIES OF THE PRESBYTERY

A. Availability of the Policy and Compliance

1. All ministers, commissioned lay pastors, ministerial candidates and inquirers, members of the Presbytery Council, and the moderators of any of the Presbytery's entities, shall be given copies of the policy and be required to sign a Receipt and Acknowledgment of Sexual Misconduct Policy and Procedures, Appendix F. Such a signature constitutes an agreement by the signatory to abide by the policy and be governed by its terms.
2. This document shall also be available on request to all church members and to the public by means of Presbytery's website at www.psne.org.
3. Presbytery employees shall receive this document as a supplement to the Personnel Policy Manual and shall be required to sign Appendix F as well.
4. All ministers, commissioned lay pastors, committee members, ministerial candidates and inquirers, volunteers, members of the Presbytery Council, the moderators of any of the Presbytery's entities, and all employees of the Presbytery of Southern New England shall be required to attend a seminar offered by the Presbytery on the issues of sexual misconduct. Sexual misconduct training must be renewed every three years. All new clergy are required to attend a seminar no later than one year after employment begins. Persons who have taken training offered by other entities, such as another presbytery or synod, seminary or other similar institution, may submit proof of that training to satisfy this requirement. Youth overnight advisors/volunteers must receive training prior to spending the night with minors at Presbytery of Southern New England sponsored functions. The Response Team or its designee will train all youth advisors/volunteers regarding this policy prior to overnight youth events.

B. Management of the Policy

1. Liability and insurance: The Presbytery, through its Board of Trustees, shall maintain liability insurance that insures for sexual misconduct coverage for its programs and activities. Annually, the Board of Trustees will check with PSNE's churches to be certain they also are carrying sexual misconduct liability insurance.
2. Record Keeping: The Presbytery of Southern New England will include in every employee's personnel file, including ministers, either an application for employment or a PIF if applicable, any employment questionnaires, reference responses, and other documents related to this policy, including Appendix F, the signed receipt acknowledging their having read and received the sexual misconduct policy. The Committee on Preparation for Ministry shall maintain a file on each candidate under care to document attendance at one training session, or equivalent, prior to approval for ordination.

C. Screening of Applicable Persons

1. Pre-Employment Reference Checks

- a. Pre-employment screening includes, but is not limited to, specific questions related to previous complaints of misconduct. The Committee on Ministry is responsible for reviewing the *Sexual Misconduct Information* page of the Presbyterian Church (U.S.A.) Personal Information Form (PIF) when interviewing persons seeking ministerial calls. The Personnel Committee will be responsible for obtaining background checks on all employees and/or contract staff working within our offices.
- b. The Executive Presbyter and/or the Stated Clerk are responsible for making reference checks to ascertain whether persons seeking ministerial calls have any history of sexual or other misconduct. The Executive Presbyter and/or Stated Clerk will report their findings to the Committee on Ministry. A written record of conversations and correspondence with references will be kept in the minister's/employee's file.
- c. When the Executive Presbyter and/or Stated Clerk provide a reference, any information provided concerning complaints, inquiries, and administrative disciplinary action shall be accurate.

2. Criminal Background Checks

- a. Pre-employment screening for prospective clergy and Presbytery staff, and enrolling of ministerial candidates and inquirers shall also include a mandatory criminal history and sexual misconduct background check, conducted by the Stated Clerk or his or her designee, using a national screening organization. The Committee of Preparation for Ministry shall maintain records noting the completion of mandatory criminal history and sexual misconduct background check.
- b. The Stated Clerk will perform background checks for any persons who may be spending the night with minors at any Presbytery of Southern New England sponsored functions using a national screening organization as in Section V.C.2.a above.

c. All persons for whom a background check is to be done shall be required to sign a written consent and release form authorizing the criminal record background check. The Committee on Ministry will provide all prospective clergy with a written disclosure that a criminal record and sexual misconduct background report will be requested. The failure of a prospective clergy person (or any other prospective lay person) to volunteer important information regarding his or her criminal history shall prevent that person from consideration or employment in any capacity, or will be grounds for termination.

d. The discovery of a criminal conviction will not automatically exclude a person from entry into the Presbytery and work in its congregations or with its youth. The use the Presbytery makes of the criminal record background report will be determined on an individual case-by-case basis, and shall include, where necessary, appropriate supervision of the individual. Only the Stated Clerk or his or her designee shall order and review the criminal record and sexual misconduct background reports. The exception to this would be that the Executive Presbyter would do the background checks for the Stated Clerk's employment. The Stated Clerk, and his or her designee, shall ensure the confidentiality and appropriate retention of criminal record and sexual misconduct background checks.

e. A person who claims that the information in the report is inaccurate, false, or incomplete shall have the right to dispute it.

D. Requests for Transfer, Release, or Renunciation of Jurisdiction

A Session or the Presbytery is constitutionally prohibited from granting a certificate of transfer to a member while an inquiry or charges are pending (D-10.0105). The reasons for not granting a transfer may be communicated by the Clerk of Session or the Stated Clerk to the appropriate persons. Should a minister renounce the jurisdiction of the Presbyterian Church (U.S.A) under G-6.0501, the Stated Clerk shall report to the governing body both the renunciation and the status of the matter at that time, including the name of the accused, the date and fact of renunciation during an investigation or trial, and the charges filed, if any. These actions shall end the Presbytery's disciplinary process. In the case of a renunciation, the Committee on Ministry shall make all reasonable efforts to provide pastoral care and justice to the accuser/victim and the congregation.

E. Disposition of Files

At the conclusion of a case, the records and files of all allegations and their disposition shall be delivered to the Stated Clerk as the designated custodian of all files concerning the case. No committee or its members shall keep copies of a file.

APPENDIX A

PROCESS IN DISCIPLINARY PROCEEDINGS

The Presbytery of Southern New England takes seriously all allegations of misconduct which may come to its attention. Such allegations will be dealt with according to the procedures contained in the Rules of Discipline. To help familiarize members of the Presbytery Assembly and its churches with these procedures, we call attention to the following facets of the disciplinary process.

A. Initiating or Exploring the Filing of a Statement of Alleged Offense

Anyone who believes that she or he has been a victim of professional misconduct by a member of the Presbytery or one of its employees or volunteers is advised to contact the Executive Presbyter, the Stated Clerk, the Moderator of the Committee on Ministry, or the Moderator of the Response Team, in person or in writing.

The official who has been contacted will provide information regarding the appropriate procedure for pursuing the matter. The official will not attempt to judge the legitimacy of the allegation or seek to resolve the matter. If the allegation involves any of the above individuals, or any other official of the Presbytery, that person is barred from participating in proceedings relative to the matter.

B. Filing a Written Allegation of Offense

1. An individual who wishes to proceed with the formal disciplinary process is advised to file a signed, written statement of allegation with the Stated Clerk of the Presbytery or, if the accused is an elder or deacon, with the Clerk of the accused's Session. The statement of allegation (Appendix D) should state briefly the nature of the offense, the name of the accused, and provide relevant and supporting information. It need not contain full details or evidentiary material. The accuser is expected to be prepared to attest personally to the allegation in the course of the investigation and disciplinary process.

Note: The procedures which follow describe only the process followed in the Presbytery of Southern New England. Disciplinary procedures in a local church will be similar to those described here. For specific details about the disciplinary process in a church, see chapter 10 of the Rules of Discipline.

2. Upon receipt of a written statement of alleged offense, the Presbytery Executive, in consultation with the Stated Clerk, will appoint an investigating committee. The Presbytery is informed by the Stated Clerk at its next meeting, without naming any of the individuals involved or the nature of the alleged offense.

3. Members of the investigating committee will be elder and minister members of the Presbytery. They will receive special orientation by the Stated Clerk or his or her designee and training in matters of process and sensitivity and are chosen to represent both particular skills and disciplines and the broader spectrum of the Presbytery's membership.

4. Upon receipt of a written statement of allegation, any need for an administrative leave will be reviewed as provided for in the Sexual Misconduct Policy of the Presbytery. The Committee on

Ministry, with concurrence of the Session, shall assist in finding Temporary Supply and shall appoint an Interim Pastor for the duration of the administrative leave.

C. The Initial Investigation

1. The Investigating Committee will inform the parties of the options and procedures open to them in the disciplinary process. The committee will respect both the rights of the accused and the alleged victim(s), and will provide the accused with a copy of the statement of the alleged offense. The committee will determine whether the accused's Session or other responsible entity should be informed at this time.
2. Both the accuser/victim and the accused have the right to be represented by counsel in the course of the investigation and any subsequent trial. Under the Rules of Discipline, such counsel does not need to be licensed attorneys. They must, however, be members of the Presbyterian Church (U.S.A.). In the event the accused is unable to secure counsel, the Permanent Judicial Commission shall appoint counsel. Reasonable expenses for defense shall be authorized and reimbursed by the Presbytery.
3. If the Investigating Committee determines that there is probable cause to believe that a chargeable offense has been committed, and that it can be reasonably proved, the committee, under the powers assigned to it in the Rules of Discipline, may elect to file charges against the accused and proceed to prosecute the case before the Permanent Judicial Commission; or, with the agreement of both the accuser/victim and the accused, initiate the process of alternative resolution as provided in the Rules of Discipline.

D. Full Judicial Process

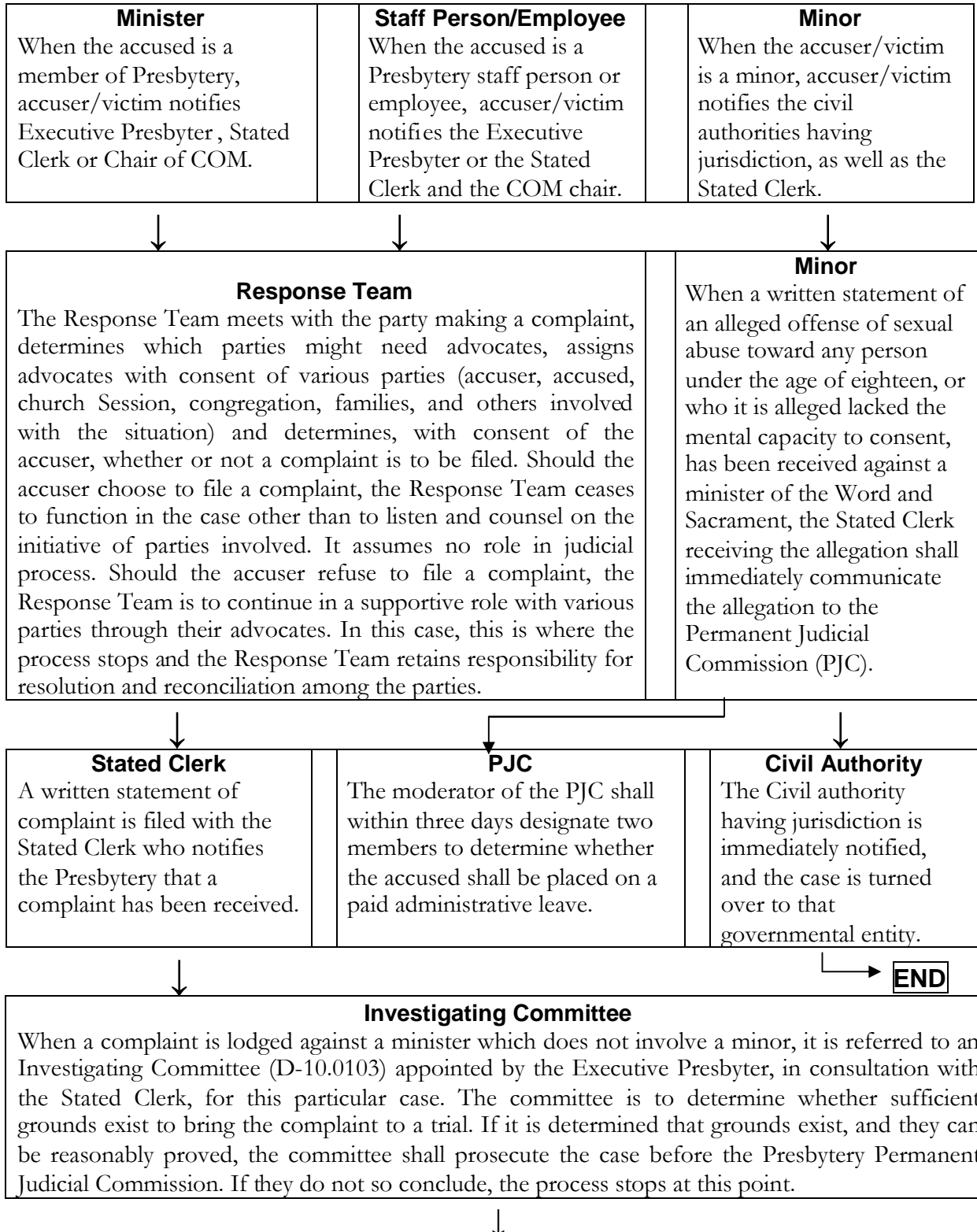
1. If formal charges are filed, the case will be tried before the Permanent Judicial Commission. In the event the accused is found guilty, the Commission determines the degree of censure as guided by the Rules of Discipline and reports its findings to the Presbytery Assembly.
2. In the event the accused is found innocent or the charges are not proven, the Executive Presbyter or his or her designee will consult with the accused to decide how best to proceed to repair any damage that may have been done to his or her reputation. Follow up with the accuser will be done as deemed necessary and appropriate at the time.

E. Renunciation of Jurisdiction

Should a minister renounce the jurisdiction of the Presbyterian Church (U.S.A.) while disciplinary proceedings are pending, the Stated Clerk shall report to the Presbytery both the renunciation and the status of the matter at that time, including the name of the accused, the date and fact of renunciation during an investigation or trial, and the charges filed, if any. These actions end the Presbytery's disciplinary process.

**APPENDIX B
PROCESS FLOW IN SEXUAL MISCONDUCT SITUATIONS**

Refer to Section IV – *Procedures and Implementation* and to Appendix A – *Process in Disciplinary Proceedings* for a more in-depth description of the process.



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Permanent Judicial Commission

Following the work of the Investigating Committee or a civil authority, the case shall be referred to the Permanent Judicial Commission which shall conduct an ecclesiastical trial to determine whether an appropriate level of censure should be enforced (D-12.0102ff). In such a trial the Investigating Committee prosecutes the case and the defendant is to seek counsel from within the membership of the Presbyterian Church (U.S.A.). In the absence of an appeal, the decision of the Permanent Judicial Commission settles the matter.



Appeal to the Permanent Judicial Commission of the Synod

Should the defense in a case allege that grounds exist for an appeal (D-13.0106) it shall be made to the Permanent Judicial Commission of the Synod? During the appeal process, any level of censure invoked by the Presbytery shall remain in force.



Request for Vindication

Should an Investigating Committee conclude that grounds for filing charges do not exist and that the complaint was frivolous or defamatory to the person accused, it would be appropriate for the Presbytery to take remedial action to defend that person's reputation. The Pastoral Response Team and the Investigating Committee should encourage the accused to file a 'request for vindication' under D-9.0000.

Throughout the process described above, from accusation to resolution, the Committee on Ministry shall ensure that the congregation involved receives appropriate care, including the appointment of interim pastoral leadership trained in the management of sexual misconduct cases. Should a pastor be placed on administrative leave, this interim appointment, in consultation with the church Session, should be made with dispatch.

APPENDIX C

MANDATORY REPORTING OF SUSPECTED CHILD ABUSE

For child abuse occurring in Connecticut, contact 1-800-842-2288

All clergy persons, church school officials, and all child care workers are Mandated Reporters and they are required to report within 12 hours, when in the course of their employment or profession, they have reasonable cause to suspect or believe that a child has been abused, neglected, or is placed in imminent risk of serious harm (CGS 17a-101a)

For child abuse occurring in Massachusetts, contact 1-800-792-5200

All clergy persons, church school officials, and all child care workers are Mandated Reporters of child abuse and neglect; however, anyone can report child abuse and neglect. Possible child abuse or neglect must first be reported immediately by filing an oral report with the Department of Social Services (DSS).

For child abuse occurring in Rhode Island, contact 1-800-742-4453

ALL persons in Rhode Island are required by law (RIGL 40-11-3) to report within 24 hours known or suspected cases of child abuse and/or neglect to the Department of Children, Youth, and Families within 24 hours of becoming aware of such abuse/neglect.



THE PRESBYTERY OF SOUTHERN NEW ENGLAND

123 Elm Street, #200
Old Saybrook, CT 06475
860/388-0874 FAX 860/388-5813
www.psne.org

February 14, 2006

Re: Changes to the *Book of Order* Regarding Mandated Reporters

Dear Clergy and Clerks of Session,

At the recent Fall Polity Conference, Stated Clerks were reminded that changes to the Constitution approved last year by the presbyteries took effect early this summer. Ministers, elders and deacons have become MANDATED REPORTERS of risk of abuse, neglect, or sexual molestation of minors.

I want to draw your attention to changes to the *Book of Order* that outline your responsibilities, and also of the need to inform elders and deacons of their new responsibility. As you are involved in recruiting, training and examining new elders and deacons for 2006, this would be a good opportunity for educating them and your Session about these changes.

All these changes are in Chapter 6 of the *Book of Order*, describing the offices of minister, elder, and deacon.

The provision for ministers is G-6.0204b. "A minister of the Word and Sacrament shall report to ecclesiastical and civil legal authorities knowledge of harm, or the 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 a confidential communication as defined in G-6.0204a; or (2) she or he reasonably believes that there is risk of future physical harm or abuse."

The responsibility here is not that different from what you are accustomed to. The new feature, which is only implicit here, is that if you have knowledge of harm (say, if one of your parishioners tells you about their abusive family situation) and you do not report it, you may be subject to discipline in the church courts if harm occurs, which might result in your removal from ministry. The issue will revolve around whether you have "knowledge of the risk of harm" and/or you "reasonably believe" there is a risk of harm or abuse. Hearing a rumor is different from having "knowledge," but certain third-hand accounts may well cause a reasonable person to believe there is a serious risk. You will need to judge the individual situation and circumstances.

The provision for elders is G-6.0304b. "An elder shall report to ecclesiastical and civil legal authorities knowledge, gained in the course of service to the church, of harm, or the 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 privileged communication; or (2) she or he reasonably believes that there is risk of future physical harm or abuse." There is a similar provision for deacons in G-6.0402b.

In this case, "privileged communication" is not related to the office of elder, but rather to such situations as an elder who is a lawyer in a lawyer-client relationship, or a doctor in a doctor-client relationship. Such situations are addressed by the code of conduct of the elder's profession.

There could be a question about what is meant by the "ecclesiastical authorities" that officers are to report to. Your response could be that it's the person(s) connected with the governing body that has jurisdiction over the abuser. If the abuser is a minister, then the Stated Clerk and/or the Executive Presbyter of the presbytery; if the abuser is a member or officer of a local church, then the Clerk of Session and/or the pastor of that church.

Although the judicial implications for elders and deacons are a lot less serious than for ministers, your elders and deacons should take seriously this statement of what the Presbyterian Church expects of them as leaders and officers in the church.

Peace and grace,

William Thomas

William Thomas, Stated Clerk

APPENDIX D

STATEMENT OF ALLEGED SEXUAL MISCONDUCT OFFENSE

Date of Report: _____ Date Received by Stated Clerk: _____

1. ACCUSER INFORMATION (please print)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____/_____-_____

Church Membership: _____

Ordination: Elder _____ Deacon _____ Minister _____ Other _____

Currently serving: Yes: _____ No: _____

2. ALLEGED VICTIM INFORMATION (if different from accuser) (please print)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____/_____-_____

Church Membership: _____

Ordination: Elder _____ Deacon _____ Minister _____ Other _____

Currently serving: Yes: _____ No: _____

3. ACCUSED INFORMATION (please print)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____/_____-_____

Church Membership: _____

Position: Elder _____ Deacon _____ Minister _____ Other _____

Presbytery Staff _____ Presbytery Volunteer _____

APPENDIX E

THE PRESBYTERY OF SOUTHERN NEW ENGLAND POLICY ON ADMINISTRATIVE LEAVE

A. The Policy

Under appropriate circumstances, Ministers of Word and Sacrament who are being investigated for professional misconduct should be temporarily removed from their ministerial positions. Under no circumstances will administrative leave be required when there is no concurrent disciplinary proceeding in process under the Rules of Discipline. The conditions in which administrative leave is appropriate include, but are not limited to, situations where:

1. the facts described in a statement of alleged offense, or where the Investigating Committee in the course of its investigation uncovers allegations which, if true, pose a significant present risk of sexual abuse, as defined in the Presbytery of Southern New England's Sexual Misconduct Policy, particularly to children or those unable to consent because of physical or mental disability;
2. the facts described in a statement of alleged offense, or where the Investigating Committee, in the course of its investigation uncovers allegations which, if true, pose a present risk of serious physical, emotional, or financial harm, particularly to children or those unable to consent because of physical or mental disability;
3. relations between the minister and the congregation or entity he or she serves have become severely conflicted in the course of the disciplinary process.

B. Application

When the Stated Clerk of the Presbytery receives a written statement of an alleged offense, in addition to initiating the procedures required by the Rules of Discipline, the Stated Clerk shall consult with the Executive Presbyter and the chair of the Committee on Ministry. If it is their unanimous judgment that the complaint warrants administrative leave, the Stated Clerk will notify the minister and the local Session that the minister is placed on administrative leave. All persons placed on administrative leave are presumed innocent until proven guilty.

C. Term

The duration of administrative leave will be set by the Committee on Ministry and will depend upon the time needed for the investigative and judicial process. The investigation will proceed to conclusion with all deliberate speed, mindful of the financial obligations of those involved.

D. Conduct of Minister on Administrative Leave

The minister on leave shall:

1. not initiate or sustain contact with any member of the church staff or any member of the congregation (other than family members) except under the following circumstances:

- a. one member of the staff may be designated, by prior mutual agreement, to deliver personal mail or other personal effects to the minister on administrative leave;
- b. when contact has been authorized by the Stated Clerk for the purpose of preparing a defense.

All other contact with the congregation shall be through the moderator appointed by the Committee on Ministry and/or through his or her designee. Even in non-church events such as scouting, school, or sports programs, the minister shall not use social contact with church members to garner support for his or her case;

2. remain out of all church buildings and off church grounds (excluding a manse and/or a school on the church property when the minister is in the role of a parent of a child enrolled in the school) throughout the duration of administrative leave;

3. not conduct worship services, weddings, funerals, administer the sacraments or engage in any form of pastoral leadership in the congregation which the minister serves, or in funeral homes, wedding chapels, or in any other congregation in the Presbytery or any other Presbytery. Provisions may be made with the Stated Clerk, Executive Presbyter, or the Committee on Ministry in those cases where the minister's pastoral care is requested by his or her own family;

4. not attend Session meetings or meetings of any other board or committee of the congregation.

E. Financial Arrangements

1. Because a minister on administrative leave is presumed innocent, he or she will continue to receive full salary, housing allowance, and medical and pension benefits as defined by his or her terms of call. However, expense allowances, including educational benefits, shall not be paid. The period during which financial support is paid shall be set by the Committee on Ministry and shall not ordinarily exceed one year. If the administrative leave is extended, the terms of call may be amended by the congregation, with the approval of the Committee on Ministry and the Presbytery.

2. Ordinarily, these costs shall be borne by the minister's congregation. In the event the congregation cannot afford to honor the accused minister's terms of call and pay for interim leadership, the costs of interim leadership may be borne in whole or in part by the Presbytery of Southern New England. The reasonableness of these costs shall be determined by the Committee on Ministry.

F. Enforcement:

Any violations of the terms of a person's administrative leave shall be reported to the Stated Clerk of the Presbytery, and may themselves become the subject of disciplinary proceedings.

PRESBYTERY OF SOUTHERN NEW ENGLAND

**ADMINISTRATIVE LEAVE
FINANCIAL TERMS OF AGREEMENT**

Date: _____

During the period of administrative leave, from _____ to _____, the Session and congregation of _____ Church agree to continue to pay _____ according to the current terms of call, not including expense allowances and/or educational benefits.

If the administrative leave is extended beyond the aforementioned date, the congregation has a right to amend the terms of call, with the approval of the Committee on Ministry and the Presbytery Assembly. Any amendment of the terms of call must be negotiated by the Committee on Ministry and the Session, in consultation with the minister, and put before the congregation for approval.

(COM Representative)

(Date)

(Minister)

(Date)

(Clerk of Session)

(Date)

(Stated Clerk)

(Date)

APPENDIX F
RECEIPT AND ACKNOWLEDGMENT OF
SEXUAL MISCONDUCT POLICY AND PROCEDURES

I have received the Presbytery of Southern New England's Sexual Misconduct Policy and Procedures dated _____ and acknowledge its contents.

Printed Name: _____

Date: _____

Position(s): _____

I agree to abide by the standards of the Presbytery of Southern New England's Sexual Misconduct Policy and Procedures as long as I remain a minister, commissioned lay pastor, ministerial candidate or inquirer, employee, volunteer, or work in a position carrying out the programs of the Presbytery of Southern New England.

Signature: _____

Date: _____

Sample

**APPENDIX G
A POLICY TO REDUCE THE RISK OF CHILD SEXUAL ABUSE
AT XXXX XXXXXXX CHURCH**

We, as parents, members and leaders of XXXX XXXXXXX Church, are concerned about the risk of child sexual abuse. In an attempt to deter any incident of such abuse, the church has instituted a series of practices and procedures. It is our intent that all persons serving in volunteer or paid positions that involve working with children or youth of the church review and sign the following policy prior to undertaking their responsibilities.

1. No convicted sex offender shall serve in a volunteer or paid position that involves continuing contact with and responsibility for minors in the church school, programs or ministries of XXXX Presbyterian Church.
2. Dating is forbidden between any adult worker and minor.
3. Efforts should be made to avoid situations in which an adult worker is alone with a minor.
4. Classroom doors without windows in them must remain open when minors and adults are inside the classroom.
5. Adults must use discretion in dealing with all minors, especially regarding physical contact. Innocent behavior can be misinterpreted. Overt displays of affection should only be made in public settings.
6. Any verbal or nonverbal sexual behavior by an adult toward a minor is inappropriate.
7. Sexual gestures or overtures by a minor toward an adult should be reported to the Pastor immediately.
8. Sexual gestures or overtures by a minor toward the Pastor should be reported to a designated member of the Personnel Committee.
9. All adult workers are to hold one another accountable by offering and accepting feedback concerning questionable behavior that could lead to a violation of one of the practices stated within this policy.
10. All adult workers are required to report suspected or known violations of one of these stated practices and procedures to the pastor or a designated member of the Personnel Committee. All allegations must also be made in writing.
11. Should you learn that any part of this policy has been violated, or that any adult worker has previously been involved in an activity involving child sexual abuse, you are required to make a confidential disclosure to one or more of the following persons: the Pastor, a Ruling Elder, or a designated member of the Personnel Committee. Such a disclosure should not be made to one of these persons if he/she is the accused. When the allegation is against a pastor, a confidential disclosure must also be made to the Committee on Ministry of the Presbytery of Southern New England.
12. Clergy, paid child-care staff and paid church school staff are designated "Mandatory Reporters" in the State of Connecticut. Mandatory Reporters are required by law to make a report to the Department of Children and Families regarding any child under the age of 18 who has been sexually abused or exploited by a person responsible for that child's care, health and welfare. Mandatory Reporters are required by law to make a report to the Department of Children and Families regarding any child under the age of 13 with a venereal disease.

I have read, understand and will support the above policy:

Signature

Date